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THE
UNREPEALED GENERAL ACTS.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL,

WITH

CHRONOLOGICAL TABLE, NOTES AND INDEX.

FOURTH EDITION.

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VOLUME V.

From 1898 to 1903, both inclusive.

CALCUTTA
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PREFACE.

THIS, the fifth, volume of the fourth Edition of the General Acts, has been compiled on the same lines as the four preceding volumes. An index to the volume is as usual appended.

The Acts included in this Volume are printed as modified up to the 31st March 1909.

S. C. BANERJEE,

Legal Assistant, Legislative Department, Government of India.

CALCUTTA,
The 31st March 1909.

LIST OF ABBREVIATIONS USED.

Aj. Code	For	Ajmere Code.
Bal. Code	„	Baluchistan Code.
Ben. Code	„	Bengal Code.
Bom. Code	„	Bombay Code.
Bur. Code	„	Burma Code.
C. P. Code	„	Central Provinces Code.
E. B. and A. Code	„	Eastern Bengal and Assam Code.
Mad. Code	„	Madras Code.
P. and N. W. Code	„	Punjab and North-West Code.
U. P. Code	„	United Provinces Code.
Coll Stat.	„	Collection of Statutes relating to India.
Gen. R. and O.	„	General Statutory Rules and Orders.
Ben. R. and O.	„	Bengal List of Local Statutory Rules and Orders.
Bom. R. and O.	„	Bombay List of Local Rules and Orders.
C. P. R. and O.	„	Central Provinces List of Local Rules and Orders.
E. B. and A. R. and O.	„	Eastern Bengal and Assam List of Local Rules and Orders.
Mad. R. and O.	„	Madras List of Local Rules and Orders.
Punj. R. and O.	„	Punjab List of Local Rules and Orders.
U. P. R. and O.	„	United Provinces List of Local Rules and Orders.
Bur. R. M.	„	Burma Rules Manual.
Brit. Enact., N. S. (Mad. and My.)	„	British Enactments in force in Native States (Southern India, Madras and Mysore) Volume.
„ „ „ (Hyd.)	„	British Enactments in force in Native States (Southern India, Hyderabad) Volume.
„ „ „ (N. I.)	„	British Enactments in force in Native States (Northern India) Volume.
„ „ „ (W. I.)	„	British Enactments in force in Native States (Western India) Volume.
„ „ „ (C. I.)	„	British Enanctments in force in Native States (Central India) Volume.
„ „ „ (Raj.)	„	British Enactments in force in Native States (Rajputana) Volume.

CHRONOLOGICAL TABLE.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1898—1903.

[The references to pages in column 5 are to pages of this Volume.]

[For complete Chronological list of all the Acts of the Governor General in Council, whether repealed or unrepealed, *see* Wigley's Chronological Tables and Index of Indian Statutes, Vol. I, Ed. 1897.]

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1898	I	The Stage Carriages Act (1861) Amendment Act, 1898.	.....	p. 1
„	III	The Lepers Act, 1898 . .	Rep. in part, Act XIII of 1898, s. 18; Act I of 1903. Amended, Act XIII of 1903.	p. 2
„	IV	The Indian Penal Code Amendment Act, 1898.	.....	p. 11
„	V	The Code of Criminal Procedure, 1898.	Rep. in part, Act VI of 1900, s. 48; (in Bombay) Bom. Act IV of 1902. Amended, Act XII of 1899, s. 3; Act VI of 1900, s. 47; Act I of 1903, sch. II; Act IV of 1909. (in Madras), Act V of 1889, s. 4, as amended by Act I of 1903; (in Punjab frontier districts and in the N. W. F. Province) Reg. III of 1901, ss. 7, 38 (*ii*) and 47, and Reg. VII of 1901, Pt. II.	p. 14
„	VI	The Indian Post Office Act, 1898.	Rep. in part, Act XIII of 1898. Amended, Act II of 1903 .	p. 336

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1898—1903—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1898	IX	The Live-Stock Importation Act, 1898.	.....	p. 365
,,	X	The Indian Insolvency Rules Act, 1898.	.....	p. 366
,,	XI	The Central Provinces Tenancy Act, 1898.	.....	C. P. Code.
,,	XII	The Central Provinces Land Revenue Act, 1898.	.....	C. P. Code.
,,	XIII	The Burma Laws Act, 1898 .	.....	Bur. Code.
1899	I	The Indian Marine Act (1887) Amendment Act, 1899.	.....	p. 367
,,	II	The Indian Stamp Act, 1899.	Amended, Act VI of 1900 . Act XV of 1904. Act V of 1906.	p. 369
,,	III	The Presidency Small Cause Courts Act, 1899.	.....	p. 437
,,	IV	The Government Buildings Act, 1899.	.....	p. 438
,,	V	The Indian Evidence Act, 1899.	.....	p. 439
,,	VI	The Indian Contract Act Amendment Act, 1899.	.....	p. 440
,,	VII	The Inland Steam-vessels Act (1884) Amendment Act, 1899.	.....	p. 443
,,	VIII	The Indian Petroleum Act, 1899.	Rep. in part, Act XI of 1901	p. 444
,,	IX	The Indian Arbitration Act, 1899.	Amended, Act VI of 1900 .	p. 459
,,	X	The Carriers Act, 1899 .	Rep. in part, Act IX of 1908	p. 466
,,	XI	The Court-fees Amendment Act, 1899.	.....	p. 467
,,	XII	The Currency Notes Forgery Act, 1899.	.....	p. 471

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1899	XIII	The Glanders and Farcy Act, 1899.	Amended, Act XI of 1901 .	p. 473
,,	XIV	The Indian Tariff Amendment Act, 1899.	S. 2 virtually amended, Act XII of 1903.	p. 478
,,	XVI	The Northern India Canal and Drainage (Amendment) Act, 1899.	.....	C. P. Code; U. P. Code; P. and N. W. Code.
,,	XVIII	The Land Improvement Loans (Amendment) Act, 1899.	.....	p. 479
,,	XIX	The Currency Conversion (Army) Act, 1899.	Rep. in part and amended, Act VII of 1900.	*Ibid.*
,,	XX	The Presidency Banks Act, 1899.	.....	p. 480
,,	XXI	The Central Provinces Tenancy (Amendment) Act, 1899.	.....	C. P. Code.
,,	XXIII	The Church of Scotland Kirk-Sessions Act, 1899.	.....	p. 480
,,	XXIV	The Central Provinces Court of Wards Act, 1899.	.....	C. P. Code.
,,	XXV	The Punjab Courts Act, 1899.	.....	P. and N. W. Code.
1900	I	The Indian Articles of War Amendment Act, 1900.	.....	p. 481
,,	II	The Transfer of Property Act, 1900.	.....	p. 482
,,	III	The Prisoners Act, 1900 .	Rep. in part, Act VI of 1900. Rep. in part and amended, Act I of 1903. Amended, Act IV of 1908.	p. 485
,,	IV	The Indian Companies Branch-Registers Act, 1900.	.....	p. 501
,,	VI	The Lower Burma Courts Act, 1900.	.....	Bur. Code.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1900	VII	To amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.	.....	p. 506
,,	IX	Court-fees (Amendment of Act VII of 1870.)	.....	*Ibid.*
,,	X	The Indian Census Act, 1900.	.....	Not re-published.
,,	XII	The Bankers' Books Evidence Act, 1900.	.....	p. 507
,,	XIII	The Punjab Alienation of Land Act, 1900.	.....	P. and N. W. Code.
1901	II	The Indian Tolls (Army) Act, 1901.	Rep. in part Act XI of 1901	p. 507
,,	V	The Indian Forest (Amendment) Act, 1901.	.....	p. 515
,,	VI	The Assam Labour and Emigration Act, 1901.	.....	Ben. Code; C. P. Code; E. B. and A. Code; Mad. Code.
,,	VII	The Native Christian Administration of Estates Act, 1901.	.....	p. 515
,,	VIII	The Indian Mines Act, 1901.	.....	p. 518
,,	IX	The Indian Articles of War Amendment Act, 1901.	.....	p. 531
,,	X	The Court-fees (Amendment) Act, 1901.	.....	p. 532
,,	XI	The Repealing and Amending Act, 1901.	Rep. in part, Act I of 1903; Mad. Act III of 1904.	p. 533
1902	I	The Imperial Library (Indentures Validation) Act, 1902.	.....	Ben. Code.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1902	II	The Cantonments (House-Accommodation) Act, 1902.	Amended, Act V of 1909	p. 545
„	III	The Indian Steam-ships (Amending and Validating) Act, 1902.	Sec. 2 virtually repealed, Act I of 1909, s. 4.	p. 561
„	IV	The Indian Tramways Act, 1902.	.....	p. 562
„	V	The Administrators General and Official Trustees Act, 1902.	.....	p. 563
„	VI	The Pandhari Tax Act, 1867, Repealing Act, 1902.	.....	C. P. Code.
„	VII	The United Provinces (Designation) Act, 1902.	.....	p. 566
„	VIII	The Indian Tariff (Amendment) Act, 1902.	Rep. in part, Act XI of 1904	p. 567
„	XI	The Central Provinces Village Sanitation Act, 1902.	.....	C. P. Code.
1903	I	The Repealing and Amending Act, 1903.	Rep. in part. Ben. Act I of 1905. Punj. Act II of 1905.	p. 568
„	II	The Indian Post Office (Amendment) Act, 1903.	.....	p. 577
„	III	The Indian Electricity Act, 1903.	.....	p. 577
„	IV	The Provident Funds (Amendment) Act, 1903.	.....	p. 617
„	VII	The Indian Works of Defence Act, 1903.	Amended, Act V of 1909	p. 618
„	VIII	The Probate and Administration Act, 1903.	.....	p. 636
„	IX	The Indian Tea Cess Act, 1903.	.....	p. 641
„	X	The Victoria Memorial Act, 1903.	.....	p. 644

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concld.*

1	2	3	4	5
Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Where published.
1903	XI	The Indian Income-tax (Amendment) Act, 1903.	.....	p. 646
,,	XII	The Indian Tariff (Amendment) Act, 1903.	.....	p. 646
,,	XIII	The Lepers (Amendment) Act, 1903.	.....	p. 647
,,	XIV	The Indian Foreign Marriage Act, 1903.	.....	p. 648
,,	XV	The Indian Extradition Act, 1903.	.....	p. 649
,,	XVI	The Central Provinces Municipal Act, 1903.	.....	C. P. Code.

THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL.

ACT No. I OF 1898.[1]

An Act to amend the Stage-Carriages Act, 1861.

[*21st January 1898.*]

XVI of 1861. WHEREAS it is expedient to amend the Stage-Carriages Act, 1861 [2]; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Stage-Carriages Act (1861) Amendment Act, 1898.

Repeal of proviso to section 1, Act XVI, 1861, and of section 2, Act XVI, 1876.

XVI of 1861. XVI of 1876. 2. The proviso to section 1 of the Stage-Carriages Act, 1861, and section 2 of the Stage-Carriages Act (1861) Amendment Act, 1876,[3] are hereby repealed.

Substitution of new paragraph in section 4, Act XVI, 1861.

XVI of 1861. 3. The first paragraph of section 4 of the Stage-Carriages Act, 1861,[2] is hereby repealed, and the following paragraph is substituted therefor, namely:—

"For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the Local Government may fix, and such license shall be in force for one year from the date thereof."

Addition of new section after section 20, Act XVI, 1861.

4. After section 20 of the said Act the following section shall be added, namely:—

Power to make rules.

"20A. (*1*) The Local Government may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 115; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 1; and for Proceedings in Council, *see ibid*, 1897, Pt. VI, pp. 221 and 254, and *ibid*, 1898, Pt. VI, p. 10.

[2] General Acts, Vol. I.

[3] General Acts, Vol. II.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;

(*b*) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and

(*c*) regulate the number and length of the stages for which animals may be driven in stage-carriages, and the manner in which they shall be harnessed and yoked.

(*3*) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees."

Addition of sections after section 21, Act XVI, 1861.

5. After section 21 of the said Act the following sections shall be added, namely :—

Extent of Act.

"22. This Act, as amended by subsequent Acts, extends to the whole of British India; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.[1]

Power to Local Government to exempt.

23. The Local Government may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act."

ACT No. III OF 1898.[2]

[*4th February 1898.*]

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

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[1] For law regulating carriages in municipalities and cantonments in—

(*1*) Bengal, *see* Ben. Act V of 1866 and the Calcutta Hackney Carriage Act, 1891 (Ben. Act II of 1891), Ben. Code;

(*2*) Bombay, *see* Bombay Act VI of 1863, Bom. Code;

(*3*) Assam, Ajmere, Coorg, North-Western Provinces and Oudh, Central Provinces, Punjab and Burma, *see* the Hackney Carriage Act, 1879 (XIV of 1879), printed in the Codes for those Provinces;

(*4*) Madras, *see* the Madras Hackney Carriage Act, 1879 (III of 1879), Mad. Code.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 231; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 7; and for Proceedings in Council, *see ibid*, 1896, Pt. VI, p. 227; *ibid*, 1897, Pt. VI, p. 248; and *ibid*, 1898, Pt. VI, pp. 10 and 18.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), *see* s. 4 (*1*) and First Schedule, Bur. Code.

It has been declared in force in the Santhal Parganas, *see* Regulation III of 1872, s. 3, as amended by Regulation III of 1896, s. 3, Ben. Code.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Lepers Act, 1898.

(*2*) It extends to the whole of British India, inclusive of * *,[1] British Baluchistan, the Santhál Parganas and the Pargana of Spiti; but

(*3*) It shall not come into force in any part thereof until the Local Government, as[2] hereinafter provided, has declared it applicable thereto.

(*4*) The Local Government may, by notification in the official Gazette, apply [3] this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, and may in like manner amend or cancel any such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "leper" means any person suffering from any variety of leprosy in whom the process of ulceration has commenced;

(*2*) "pauper leper" means a leper—

(*a*) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(*b*) who is at large without any ostensible means of subsistence;

(*3*) "leper asylum" means a leper asylum appointed under section 3;

(*4*) "Board" means a Board constituted under section 5; and

(*5*) "District Magistrate" includes a Chief Presidency Magistrate.

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[1] The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898) *see* the Fifth Schedule, Bur. Code.

[2] As to law in force in Bengal, *see* s. 19, *infra*, and in Assam the note to that section.
This Act has been applied to the whole of Burma (except the Shan States) with effect from the 1st January 1899, *see* Burma Gazette, 1898, Pt. I, p. 576.

[3] For notifications applying this Act to —
Bengal, *see* Calcutta Gazette, 1901, Pt. I, p. 645;
Assam, *see* Assam Gazette, 1901, Pt. II, p 711;
Central Provinces, *see* Central Provinces Gazette, 1903, Pt. III, p. 19;
the districts of Allahabad, Benares and Lucknow and the Kumaon Divisions, *see* N. W. P. Oudh Gazette, 1898, Pt. I, p. 910;
Dehra Dun District in the United Provinces, *see* United Provinces Gazette, 1906, Pt. I, p.1092;
Port Blair, *see* Andaman and Nicobar Gazette, 1900, p. 256.

Appointment of leper asylums by Local Government.

3. The Local Government may,[1] by notification in the official Gazette, appoint any place to be a leper asylum for the purposes of this Act and specify the local areas from which lepers may be sent to such asylum, and may, in like manner, alter or cancel any such notification.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified medical man to be an Inspector of Lepers[2] and any person to be a Superintendent[3] of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board[4] consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Arrest of pauper lepers.

6. (*1*) Within any local area which has been specified under section 3 any police-officer may arrest without a warrant any person who appears to him to be a pauper leper.

(*2*) Such police-officer shall forthwith take or send the person so arrested to the nearest convenient police-station.

Person arrested how to be dealt with.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(*a*) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;

(*b*) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is,

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[1] For notifications declaring places to be leper asylums in Rangoon, Mandalay and Maulmain, and the areas from which lepers may be sent to these asylums, *see* Burma Gazette, 1908, Pt. I, p. 46.

For notifications in respect of (1) the Prince Albert Victor Asylum in Bengal, *see* Calcutta Gazette, 1901 Pt. I, p. 646; (2) the Asylum at Naini in the United Provinces, *see* United Provinces Gazette, 1905, Pt. I, p. 796; and for notifications appointing other places, *see* U. P. R. and O.; (3) the Asylum at Port Blair, *see* Andaman and Nicobar Gazette, 1900, Pt. I, p. 256; (4) the Dehra Dun District, *see* the United Provinces Gazette, 1906, Pt. I, p. 1093.

[2] For Inspectors of Lepers appointed for certain towns in Burma, *see* Burma Gazette, 1908, Pt. I, p. 47; *ibid*, 1899, Pt. I, pp. 403 and 732; for notification for Bengal, *see* Calcutta Gazette, 1901, Pt. I, p. 646; for Dehra Dun, *see* United Provinces Gazette, 1906, Pt. I, p. 1093; for the United Provinces, *see* U. P. R. and O.; N. W. P. and Oudh Gazette, 1899, Pt I, p. 365.

[3] For notification appointing Superintendents of Leper Asylums in Burma, *see* Burma Gazette, 1908, Pt. I, p. 46; in the Dehra Dun District, *see* United Provinces Gazette, 1906, Pt. I, p 1093; and at Port Blair, *see* Andaman and Nicobar Gazette, 1900, Pt. I, p. 256.

[4] For notifications constituting Boards for Leper Asylums at Rangoon, Mandalay and Maulmain, *see* Bur. R. M.; *see* Burma Gazette, 1898, Pt. I, p. 567; *ibid*, 1899, Pt. I, p. 733; for the Prince Albert Victor Asylum in Bengal, *see* Calcutta Gazette, 1901, Pt. I, p. 646; for the district of Dehra Dun, *see* United Provinces Gazette, 1906, Pt. I, p. 1093.

a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

Procedure with regard to pauper lepers.

8. (*1*) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate :

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure [1] shall be applicable.

X of 1882.

(*2*) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

Power to prohibit lepers from following certain trades and doing certain acts.

9. (*1*) The Local Government may, by notification in the official Gazette, order that no leper shall, within any area specified under section 3,[2]—

(*a*) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or

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[1] *See* now Act V of 1898, *infra*.

[2] For notification issued in exercise of the powers conferred by this section for certain towns in (1) Burma, *see* Bur. R. M.; Burma Gazette, 1898, Pt. I, p. 577 ; *ibid*, 1899, Pt. I, p. 753 ; (2) Central Provinces, *see* Central Provinces Gazette, 1909, Pt. I, p. 107 ; (3) Andaman and Nicobar Islands, *see* Andaman and Nicobar Gazette, 1903, Pt. I, p. 129; (4) United Provinces, *see* U. P. R. and O.

(*b*) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers; or

(*c*) drive, conduct or ride in any public carriage plying for hire other than a railway carriage; or

(*d*) exercise any trade or calling which may by such notification be prohibited to lepers.

(*2*) Any such notification may comprise all or any of the above prohibitions.

(*3*) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees:

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

Conviction after previous conviction.

10. (*1*) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(*2*) If any such leper fails to furnish any security required under sub-section (*1*), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(*3*) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

Penalty on person employing lepers in prohibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees:

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Re-arrest of escaped lepers.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested by any police-officer without a warrant, and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (*a*) every leper therein admitted since the last inspection, together with the order for his admission, and (*b*), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer[1] as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Power of the Local Government to make rules.

16. The Local Government may, by notification in the official Gazette, make[2] rules generally for carrying out the purposes of this Act, and in particular—

(*a*) for the guidance of all or any of the officers discharging any duty under this Act; and

(*b*) for the management of, and the maintenance of discipline in, a leper asylum.

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[1] The Principal of the Medical College, Calcutta, is the officer appointed for Bengal, *see* Ben. R. and O.

[2] For rules made in exercise of the powers conferred by this section for Mandalay, Rangoon and Maulmain, *see* Burma Gazette, 1898, Pt. I, p. 577; *ibid*, 1899, p. 733; for the Prince Albert Victor Asylum, *see* Calcutta Gazette, 1901, Pt. I. p. 690; for the Mission Asylum, *see ibid*, 1902, Pt. I, p. 1504; for the Asylum at Sylhet, *see* Assam Gazette, 1902, Pt. II, p. 482; for the Asylum at Nagpur, *see* Central Provinces Gazette, 1903, Pt. III, p. 20; for the Asylum at Naini, *see* United Provinces Gazette, 1905, Pt. I, p. 796.

Power to local authorities to expend funds and appropriate property to asylums.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

(*a*) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority;

(*b*) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

Protection to persons acting *bonâ fide*, under Act.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith[1] done or intended to be done under, or in pursuance of, the provisions of this Act.

Lepers from Native States.

[2] **19.** The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act.

SCHEDULE.

A.—CERTIFICATE.

(*Section 7.*)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of person examined*), and that the said

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[1] As to definition of good faith, *see* s. 3 (*20*) of the General Clauses Act, 1897 (X of 1897), General Acts, Vol. IV.

[2] Added by the Lepers (Amendment) Act, 1903 (XIII of 1903), s. 2, *infra*. The original section 19 was repealed by the Repealing and Amending Act, 1903 (I of 1903), *infra*.

is not a leper as defined by the Lepers Act, 1898.

Given under my hand this day 189 .

(*Signture.*)

Inspector of Lepers.

B.—CERTIFICATE.

(*Section 7.*)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of leper*), and that the said is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this day of 189

(*Signature.*)

Inspector of Lepers.

(*Schedule.*)

C.—WARRANT OF DETENTION.

(*Section 8.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189

Seal.

(*Signature.*)

Magistrate.

D.—Warrant of Detention.

(*Section. 10.*)

To

The Superintendent of the Leper Asylum at

Whereas (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section:

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189

Seal.

(*Signature.*)

Magistrate.

E.—Order of Discharge by Board.*

(*Section 14.*)

To

The Superintendent of the Leper Asylum at

Whereas (*name and description*) was committed to your custody under an order dated the day of 189 and there have appeared to us sufficient grounds for the opinion that $\frac{\text{he}}{\text{she}}$ can be released without hazard or inconvenience to the community:

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this day of 189

(*Signatures.*)

Members of the Asylum Board.

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* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (*2*).

ACT No. IV OF 1898.[1]

[*18th February 1898.*]

An Act to amend the Indian Penal Code.[2]

XLV of 1860. WHEREAS it is expedient to amend the Indian Penal Code[2] ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Penal Code Amendment Act, 1898 ; and

(*2*) It shall come into force at once.

XLV of 1860. Substitution of new section for section 4, Act XLV, 1860.

2. Section 4 of the Indian Penal Code[2] is hereby repealed, and the following section is substituted therefor, namely :—

Extension of Code to extra-territorial offences.

"4. The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and beyond British India ;

(2) any other British subject within the territories of any Native Prince or Chief in India ;

(3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

Explanation.—In this section the word "offence" includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Illustrations.

(*a*) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(*b*) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(*c*) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(*d*) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 184 ; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 13 ; and Proceedings in Council, *see ibid*, 1897, Pt. VI, pp. 237 and 254 ; and *ibid*, 1898, Pt. V, pp. 19 and 23.

This Act is in force in Upper Burma (except the Shan States) as amending the Indian Penal Code (Act XLV of 1860), *see* the Burma Laws Act, 1898 (XIII of 1898), First Schedule, Bur. Code.

It has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[2] General Acts, Vol. I.

Insertion of new section after section 108, Act XLV, 1860.

3. After section 108 of the Indian Penal Code, the following section shall be added, namely :— XLV of 1860.

Abetment in British India of offences outside it.

"108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Illustration.

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder."

Substitution of new section for section 124A, Act XLV, 1860.

4. Section 124A of the Indian Penal Code[1] is hereby repealed, and the following section is substituted therefor, namely :— XLV of 1860.

Sedition.

"124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Addition of new section after section 153, Act XLV, 1860. Promoting enmity between classes.

5. After section 153 of the Indian Penal Code[1] the following section shall be inserted, namely :— XLV of 1860.

"153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall

[1] General Acts, Vol. I.

be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects."

XLV of 1860.

6. Section 505 of the Indian Penal Code[1] is hereby repealed and the following section is substituted therefor, namely :—

Substitution of new section for section 505, Act XLV, 1860.

Statements conducing to public mischief.

"505. Whoever makes, publishes or circulates any statement, rumour or report,—

(*a*) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."

[1] General Acts, Vol. I.

THE CODE OF CRIMINAL PROCEDURE, 1898.

CONTENTS.

PART I.
PRELIMINARY.

CHAPTER I.

SECTIONS.

1. Short title.
   Commencement.
   Extent.
2. Repeal of enactments.
   Notifications, etc., under repealed Acts.
   Pending cases.
3. References to Code of Criminal Procedure and other repealed enactments.
   Expressions in former Acts.
4. Definitions.
   Words referring to Acts.
   Words to have same meaning as in Indian Penal Code.
5. Trial of offences under Penal Code.
   Trial of offences against other laws.

PART II.
CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Classes of Criminal Courts.

B.—Territorial Divisions.

7. Sessions divisions and districts.
   Power to alter divisions and districts.
   Existing divisions and districts maintained till altered.
   Presidency-towns to be deemed districts.
8. Power to divide districts into sub-divisions.
   Existing sub-divisions maintained.

SECTIONS.

C.—Courts and offices outside the Presidency-towns.

9. Court of Session.
10. District Magistrate.
11. Officers temporarily succeeding to vacancies in office of District Magistrate.
12. Subordinate Magistrates.
Local limits of their jurisdiction.
13. Power to put Magistrate in charge of sub-division.
Delegation of powers to District Magistrate.
14. Special Magistrates.
15. Benches of Magistrates.
Powers exerciseable by Bench in absence of special direction.
16. Powers to frame rules for guidance of Benches.
17. Subordination of Magistrates and Benches to District Magistrate; to Sub-divisional Magistrate.
Subordination of Assistant Sessions Judges to Sessions Judge.

D.—Courts of Presidency Magistrates.

18. Appointment of Presidency Magistrates.
19. Benches.
20. Local limits of jurisdiction.
21. Chief Presidency Magistrate.

E.—Justices of the Peace.

22. Justices of the Peace for the mufassal.
23. Justices of the Peace for the Presidency-towns.
24. Present Justices of the Peace.
25. *Ex officio* Justices of the Peace.

F.—Suspension and Removal.

26. Suspension and removal of Judges and Magistrates.
27. Suspension and removal of Justices of the Peace.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

28. Offences under Penal Code.
29. Offences under other laws.
30. Offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. Sentences which High Courts and Sessions Judges may pass.
32. Sentences which Magistrates may pass.

SECTIONS.

33. Power of Magistrates to sentence to imprisonment in default of fine.
Proviso as to certain cases.
34. Higher powers of certain District Magistrates.
35. Sentence in cases of conviction of several offences at one trial.
Maximum term of punishment.

C.—Ordinary and Additional Powers.

36. Ordinary powers of Magistrates.
37. Additional powers conferable on Magistrates.
38. Control of District Magistrate's investing power.

D.—Conferment, Continuance and Cancellation of Powers.

39. Mode of conferring powers.
43. Continuance of powers of officers transferred.
41. Powers may be cancelled.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

42. Public when to assist Magistrates and police.
43. Aid to person, other than police-officer, executing warrant.
44. Public to give information of certain offences.
45. Village-headmen, accountants, landholders and others bound to report certain matters.
Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. Arrest how made.
Resisting endeavour to arrest.
47. Search of place entered by person sought to be arrested.
48. Procedure where ingress not obtainable.
Breaking open zanáná.
49. Power to break open doors and windows for purposes of liberation.
50. No unnecessary restraint.

SECTIONS.

51. Search of arrested persons.
52. Mode of searching women.
53. Power to seize offensive weapons.

B.—Arrest without Warrant.

54. When police may arrest without warrant.
55. Arrest of vagabonds, habitual robbers, etc.
56. Procedure when police-officer deputes subordinate to arrest without warrant.
57. Refusal to give name and residence.
58. Pursuit of offenders into other jurisdictions.
59. Arrest by private persons.
Procedure on such arrest.
60. Person arrested to be taken before Magistrate or officer in charge of police-station.
61. Person arrested not to be detained more than twenty-four hours.
62. Police to report apprehensions.
63. Discharge of person apprehended.
64. Offence committed in Magistrate's presence.
65. Arrest by or in presence of Magistrate.
66. Power, on escape, to pursue and retake.
67. Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. Form of summons.
Summons by whom served.
69. Summons how served.
Signature of receipt for summons.
70. Service when person summoned cannot be found.
71. Procedure when service cannot be effected as before provided.
72. Service on servant of Government or of Railway Company.
73. Service of summons outside local limits.
74. Proof of service in such cases, and when serving officer not present.

B.—Warrant of Arrest.

75. Form of warrant of arrest.
Continuance of warrant of arrest.
76. Court may direct security to be taken.
Recognizance to be forwarded.
77. Warrants to whom directed.
Warrant to several persons.

SECTIONS.

78. Warrant may be directed to landholders, etc.
79. Warrant directed to police-officer.
80. Notification of substance of warrant.
81. Person arrested to be brought before Court without delay.
82. Where warrant may be executed.
83. Warrant forwarded for execution outside jurisdiction.
84. Warrant directed to police-officer for execution outside jurisdiction.
85. Procedure on arrest of person against whom warrant issued.
86. Procedure by Magistrate before whom person arrested is brought.

C.—Proclamation and attachment.

87. Proclamation for person absconding,
88. Attachment of property of person absconding.
89. Restoration of attached property.

D.—Other Rules regarding Processes.

90. Issue of warrant in lieu of, or in addition to, summons.
91. Power to take bond for appearance.
92. Arrest on breach of bond for appearance.
93. Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. Summons to produce document or other thing.
95. Procedure as to letters and telegrams.

B.—Search-warrants.

96. When search-warrant may be issued.
97. Power to restrict warrant.
98. Search of house suspected to contain stolen property, forged documents, etc.
99. Disposal of things found in search beyond jurisdiction.

C.—Discovery of Persons wrongfully confined.

100. Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

101. Direction, etc., of search-warrants.
102. Persons in charge of closed place to allow search.
103. Search to be made in presence of witnesses.—
Occupant of place searched may attend.

SECTIONS.

E.—Miscellaneous.

104. Power to impound documents, etc., produced.
105. Magistrate may direct search in his presence.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

106. Security for keeping the peace on conviction.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

107. Security for keeping the peace in other cases.
Procedure of Magistrate not empowered to act under sub-section (*1*).
108. Security for good behaviour from persons disseminating seditious matter.
109. Security for good behaviour from vagrants and suspected persons.
110. Security for good behaviour from habitual offenders.
111. Proviso as to European vagrants.
112. Order to be made.
113. Procedure in respect of person present in Court.
114. Summons or warrant in case of person not so present.
115. Copy of order under section 112 to accompany summons or warrant.
116. Power to dispense with personal attendance.
117. Inquiry as to truth of information.
118. Order to give security.
119. Discharge of person informed against.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

120. Commencement of period for which security is required.
121. Contents of bond.
122. Power to reject sureties.
123. Imprisonment in default of security.—
Proceedings when to be laid before High Court or Court of Session.
Kind of imprisonment.
124. Power to release persons imprisoned for failing to give security.
125. Power of District Magistrate to cancel any bond for keeping the peace or good-behaviour.
126. Discharge of sureties.

CHAPTER IX.

UNLAOUL ASSEMBLIES.

SECTIONS.

127. Assembly to disperse on command of Magistrate or police-officer.
128. Use of civil force to disperse.
129. Use of military force.
130. Duty of Officer commanding troops required by Magistrate to disperse assembly.
131. Power of commissioned military officers to disperse assembly.
132. Protection against prosecution for acts done under this Chapter.

CHAPTER X.

PUBLIC NUISANCES.

133. Conditional order for removal of nuisance.
134. Service or notification of order.
135. Person to whom order is addressed to obey, or show cause or claim jury.
136. Consequence of his failing to do so.
137. Procedure where he appears to show cause.
138. Procedure where he claims jury.
139. Procedure where jury finds Magistrate's order to be reasonable.
140. Procedure on order being made absolute.
Consequences of disobedience to order.
141. Procedure on failure to appoint jury or omission to return verdict.
142. Injunction pending inquiry.
143. Magistrate may prohibit repetition or continuance of public nuisance.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

144. Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

145. Procedure where dispute concerning land, etc., is likely to cause breach of peace.
Inquiry as to possession.
Party in possession to retain possession until legally evicted.
146. Power to attach subject of dispute.
147. Disputes concerning easements, etc.
148. Local inquiry.
Order as to costs.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

SECTIONS.

149. Police to prevent cognizable offences.
150. Information of design to commit such offences.
151. Arrest to prevent such offences.
152. Prevention of injury to public property.
153. Inspection of weights and measures.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. Information in cognizable cases.
155. Information in non-cognizable cases.
Investigation into non-cognizable cases.
156. Investigation into cognizable cases.
157. Procedure where cognizable offence suspected;
where local investigation dispensed with;
where police-officer in charge sees no sufficient ground for investigation
158. Reports under section 157 how submitted.
159. Power to hold investigation or preliminary inquiry.
160. Police-officer's power to require attendance of witnesses.
161. Examination of witnesses by police.
162. Statements to police not to be signed or admitted in evidence.
163. No inducement to be offered.
164. Power to record statements and confessions.
165. Search by police-officer.
166. When officer in charge of police-station may require another to issue search-warrant.
167. Procedure when investigation cannot be completed in twenty-four hours.
168. Report of investigation by subordinate police-officer.
169. Release of accused when evidence deficient.
170. Case to be sent to Magistrate when evidence is sufficient.
171. Complainants and witnesses not to be required to accompany police-officer.
Complainants and witnesses not to be subjected to restraint.
Recusant complainant or witness may be forwarded in custody.
172. Diary of proceedings in investigation.
173. Report of police-officer.
174. Police to inquire and report on suicide, etc.
175. Power to summon persons.
176. Inquiry by Magistrate into cause of death.
Power to disinter corpses.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

SECTIONS.

177. Ordinary place of inquiry and trial.
178. Power to order cases to be tried in different sessions divisions.
179. Accused triable in district where act is done, or where consequence ensues.
180. Place of trial where act is offence by reason of relation to other offence.
181. Being a thug or belonging to a gang of dacoits, escape from custody, etc.
Criminal misappropriation and criminal breach of trust.
Stealing.
Kidnapping and abduction.
182. Place of inquiry or trial where scene of offence is uncertain, or not in one district only; or where offence is continuing; or consists of several acts.
183. Offence committed on a journey.
184. Offences against Railway, Telegraph, Post Office and Arms Acts.
185. High Court to decide, in case of doubt, district where enquiry or trial shall take place.
186. Power to issue summons or warrant for offence committed beyond local jurisdiction.
Magistrate's procedure on arrest.
187. Procedure where warrant issued by subordinate Magistrate.
188. Liability of British subjects for offences committed out of British India.
Political Agent to certify fitness of inquiry into charge.
189. Power to direct copies of depositions and exhibits to be received in evidence.

B.—Conditions requisite for Initiation of Proceedings.

190. Cognizance of offences by Magistrates.
191. Transfer or commitment on application of accused.
192. Transfer of cases by Magistrates.
193. Cognizance of offences by Courts of Session.
194. Cognizance of offences by High Court.
Informations by Advocate General.
195. Prosecution for contempts of lawful authority of public servants.
Prosecution for certain offences against public justice.
Prosecution for certain offences relating to documents given in evidence.
Nature of sanction necessary.

SECTIONS.

196. Prosecution for offences against the State.
197. Prosecution of Judges and public servants.
Power of Government as to prosecution.
198. Prosecution for breach of contract, defamation and offences against marriage.
199. Prosecution for adultery or enticing a married woman.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

SECTIONS.

200. Examination of complainant.
201. Procedure by Magistrate not competent to take cognizance of the case.
202. Postponement of issue of process.
203. Dismissal of complaint.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. Issue of process.
205. Magistrate may dispense with personal attendance of accused.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. Power to commit for trial.
207. Procedure in inquiries preparatory to commitment.
208. Taking of evidence produced.
Process for production of further evidence.
209. When accused person to be discharged.
210. When charge is to be framed.
Charge to be explained, and copy furnished, to accused.
211. List of witnesses for defence on trial.
Further list.
212. Power of Magistrate to examine such witnesses.
213. Order of commitment.
214. Person charged outside presidency-towns jointly with European British subject.
215. Quashing commitments under section 213 or 214.
216. Summons to witnesses for defence when accused is committed.
Refusal to summon unnecessary witness unless deposit made.

SECTIONS.

217. Bond of complainants and witnesses.
Detention in custody in case of refusal to attend or to execute bond.
218. Commitment when to be notified.
Charge, etc., to be forwarded to High Court or Court of Session.
English translation to be forwarded to High Court.
219. Power to summon supplementary witnesses.
220. Custody of accused pending trial.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. Charge to state offence.
Specific name of offence sufficient description.
How stated where offence has no specific name.
What implied in charge.
Language of charge.
Previous conviction when to be set out.
222. Particulars as to time, place and person.
223. When manner of committing offence must be stated.
224. Words in charge taken in sense of law under which offence is punishable.
225. Effect of errors.
226. Procedure on commitment without charge or with imperfect charge.
227. Court may alter charge.
228. When trial may proceed immediately after alteration.
229. When new trial may be directed, or trial suspended.
230. Stay of proceedings if prosecution of offence in altered charge require previous sanction.
231. Recall of witnesses when charge altered.
232. Effect of material error.

Joinder of Charges.

233. Separate charges for distinct offences.
234. Three offences of same kind within year may be charged together.
235. Trial for more than one offence.
Offence falling within two definitions.
Acts constituting one offence, but constituting when combined a different offence.
236. Where it is doubtful what offence has been committed.
237. When a person is charged with one offence, he can be convicted of another.
238. When offence proved included in offence charged.
239. What persons may be charged jointly.
240. Withdrawal of remaining charges on conviction on one of several charges.

CHAPTER XX.

Of the Trial of Summons-cases by Magistrates.

Sections.

241. Procedure in summons-cases.
242. Substance of accusation to be stated.
243. Conviction on admission of truth of accusation.
244. Procedure when no such admission is made.
245. Acquittal.
Sentence.
246. Finding not limited by complaint or summons.
248. Non-appearance of complainant.
248. Withdrawal of complaint.
249. Power to stop proceedings when no complainant.

Frivolous Accusations in Summons and Warrant Cases.

250. Frivolous or vexatious accusations.

CHAPTER XXI.

Of the Trial of Warrant-cases by Magistrates.

251. Procedure in warrant-cases.
252. Evidence for prosecution.
253. Discharge of accused.
254. Charge to be framed when offence appears proved.
255. Plea.
256. Defence.
257. Process for compelling production of evidence at instance of accused.
258. Acquittal.
Conviction.
259. Absence of complainant.

CHAPTER XXII.

Of Summary Trials.

260. Power to try summarily.
261. Power to invest Bench of Magistrates invested with less power.
262. Procedure for summons and warrant cases applicable.
Limit of imprisonment.
263. Record in cases where there is no appeal.
264. Record in appealable cases.
265. Language of record and judgment.
Bench may be authorized to employ clerk.

CHAPTER XXIII.

Of Trials before High Court and Courts of Session.

A.—Preliminary.

Sections.

266. " High Court " defined.
267. Trials before High Court to be by jury.
268. Trials before Court of Session to be by jury or with assessors.
269. Local Government may order trials before Court of Session to be by jury.
270. Trial before Court of Session to be conducted by Public Prosecutor.

B.—Commencement of Proceedings.

271. Commencement of trial.
Plea of guilty.
272. Refusal to plead or claim to be tried.
Trial by same jury or assessors of several offenders in succession.
273. Entry on sustainable charges.
Effect of entry.

C.—Choosing a Jury.

274. Number of jury.
275. Jury for trial of persons not Europeans or Americans before Court of Session.
276. Jurors to be chosen by lot.
Existing practice maintained ;
persons not summoned when eligible ;
trials before special jurors.
277. Names of jurors to be called.
Objection to jurors.
Objection without grounds stated.
278. Grounds of objection.
279. Decision of objection.
Supply of place of juror against whom objection allowed.
280. Foreman of jury.
281. Swearing of jurors.
282. Procedure when juror ceases to attend, etc.
283. Discharge of jury in case of sickness of prisoner.

D.—Choosing Assessors.

284. Assessors how chosen.
285. Procedure when assessor is unable to attend.

E.—Trial to Close of Cases for Prosecution and Defence.

286. Opening case for prosecution.
Examination of witnesses.
287. Examination of accused before Magistrate to be evidence.
288. Evidence given at preliminary inquiry admissible.

SECTIONS.

289. Procedure after examination of witnesses for prosecution.
290. Defence.
291. Right of accused as to examination and summoning of witnesses.
292. Prosecutor's right of reply.
293. View by jury or assessors.
294. When juror or assessors may be examined.
295. Jury or assessors to attend at adjourned sitting.
296. Locking up jury.

F.—Conclusion of Trial in Cases tried by Jury.

297. Charge to jury.
298. Duty of Judge.
299. Duty of jury.
300. Retirement to consider.
301. Delivery of verdict.
302. Procedure where jury differ.
303. Verdict to be given on each charge.
Judge may question jury.
Questions and answers to be recorded.
304. Amending verdict.
305. Verdict in High Court when to prevail.
Discharge of jury in other cases.
306. Verdict in Court of Session when to prevail.
307. Procedure where Sessions Judge disagrees with verdict.

G.—Re-trial of Accused after Discharge of Jury.

308. Re-trial of accused after discharge of jury.

H.—Conclusion of Trial in cases tried with Assessors.

309. Delivery of opinion of assessors.
Judgment.

I.—Procedure in Case of previous Conviction.

310. Procedure in case of previous conviction.
311. When evidence of previous conviction may be given.

J.—List of Jurors for High Court and summoning Jurors for that Court.

312. Number of special jurors.
313. Lists of common and special jurors.
Discretion of officer preparing lists.
314. Publication of lists, preliminary and revised.
315. Number of jurors to be summoned in presidency-towns.
Supplementary summons.
316. Summoning jurors outside the presidency-towns.
317. Military jurors.
318. Failure of jurors to attend.

K.—List of Jurors and Assessors for Court of Session and summoning Jurors and Assessors for that Court.

SECTIONS.

319. Liability to serve as jurors or assessors.
320. Exemptions.
321. List of jurors and assessors.
322. Publication of list.
323. Objections to list.
324. Revision of list.
Annual revision of list.
325. Preparation of list of special jurors.
326. District Magistrate to summon jurors and assessors.
327. Power to summon another set of jurors or assessors.
328. Form and contents of summons.
329. When Government or Railway servant may be excused.
330. Court may excuse attendance of juror or assessor.
Court may relieve special jurors from liability to serve again as jurors for twelve months.
331. List of jurors and assessors attending.
332. Penalty for non-attendance of juror or assessor.

L.—Special Provisions for High Courts.

333. Power of Advocate General to stay prosecution.
334. Time of holding sittings.
335. Place of holding sittings.
Notice of sittings.
336. Place of trial of European British subjects.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337. Tender of pardon to accomplice.
338. Power to direct tender of pardon.
339. Commitment of person to whom pardon has been tendered.
340. Right of accused to be defended.
341. Procedure where accused does not understand proceedings.
342. Power to examine the accused.
343. No influence to be used to induce disclosures.
344. Power to postpone or adjourn proceedings.
Remand.
Reasonable cause for remand.
345. Compounding offences.
346. Procedure of Provincial Magistrate in cases which he cannot dispose of.
347. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.
348. Trial of persons previously convicted of offences against coinage, stamp-law or property.
349. Procedure when Magistrate cannot pass sentence sufficiently severe.

SECTIONS.

350. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
351. Detention of offenders attending Court.
352. Courts to be open.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Evidence to be taken in presence of accused.
354. Manner of recording evidence outside presidency-towns.
355. Record in summons-cases, and in trials of certain offences by first and second class Magistrates.
356. Record in other cases outside presidency-towns.
Evidence given in English.
Memorandum when evidence not taken down by the Magistrate or Judge himself.
357. Language of record of evidence.
358. Option to Magistrate in cases under section 355.
359. Mode of recording evidence under section 356 or section 357.
360. Procedure in regard to such evidence when completed.
361. Interpretation of evidence to accused or his pleader.
362. Record of evidence in Presidency Magistrates' Courts.
363. Remarks respecting demeanour of witness.
364. Examination of accused how recorded.
365. Record of evidence in High Court.

CHAPTER XXVI.

OF THE JUDGMENT.

366. Mode of delivering judgment.
367. Language of judgment.
Contents of judgment.
Judgment in alternative.
368. Sentence of death.
Sentence of transportation.
369. Court not to alter judgment.
370. Presidency Magistrate's judgment.
371. Copy of judgment, etc., to be given to accused on application.
Case of person sentenced to death.
372. Judgment when to be translated.
373. Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVII.

SECTIONS.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. Sentence of death to be submitted by Court of Session.
375 Power to direct further inquiry to be made or additional evidence to be taken.
376. Power of High Court to confirm sentence or annul conviction.
377. Confirmation or new sentence to be signed by two Judges.
378. Procedure in case of difference of opinion.
379. Procedure in cases submitted to High Court for confirmation.
380. Procedure in cases submitted by Magistrate not empowered to act under section 562.

CHAPTER XXVIII.

OF EXECUTION.

381. Execution of order passed under section 376.
382. Postponement of capital sentence on pregnant woman.
383. Execution of sentences of transportation or imprisonment in other cases.
384. Direction of warrant for execution.
385. Warrant with whom to be lodged.
386. Warrant for levy of fine.
387. Effect of such warrant.
388. Suspension of execution of sentence of imprisonment.
389. Who may issue warrant.
390. Execution of sentence of whipping only.
391. Execution of sentence of whipping in addition to imprisonment.
392. Mode of inflicting punishment.
Limit of number of stripes.
393. Not to be executed by instalments.
Exemptions.
394. Whipping not to be inflicted if offender not in fit state of health.
Stay of execution.
395. Procedure if punishment cannot be inflicted under section 394.
396. Execution of sentences on escaped convicts.
397. Sentence on offender already sentenced for another offence.
398. Saving as to sections 396 and 397.
399. Confinement of youthful offenders in reformatories.
400. Return of warrant on execution of sentence.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. Power to suspend or remit sentences.
402. Power to commute punishment.

CHAPTER XXX.

Of previous Acquittals or Convictions.

Sections.
403. Persons once convicted or acquitted not to be tried for same offence.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

Of Appeals.

404. Unless otherwise provided, no appeal to lie.
405. Appeal from order rejecting application for restoration of attached property.
406. Appeal from order requiring security for good behaviour.
407. Appeal from sentence of Magistrate of the second or third class.
Transfer of appeals to first class Magistrate.
408. Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.
409. Appeals to Court of Session how heard.
410. Appeal from sentence of Court of Session.
411. Appeal from sentence of Presidency Magistrate.
412. No appeal in certain cases when accused pleads guilty.
413. No appeal in petty cases.
414. No appeal from certain summary convictions.
415. Proviso to sections 413 and 414.
416. Saving of sentences on European British subjects.
417. Appeal on behalf of Government in case of acquittal.
418. Appeal on what matters admissible.
419. Petition of appeal.
420. Procedure when appellant in jail.
421. Summary dismissal of appeal.
422. Notice of appeal.
423. Powers of Appellate Court in disposing of appeal.
424. Judgments of subordinate Appellate Courts.
425. Order by High Court on appeal to be certified to Lower Court.
426. Suspension of sentence pending appeal.
Release of appellant on bail.
427. Arrest of accused in appeal from acquittal.
428. Appellate Court may take further evidence or direct it to be taken.
429. Procedure where Judges of Court of Appeal are equally divided.
430. Finality of orders on appeal.
431. Abatement of appeals.

CHAPTER XXXII.

Of Reference and Revision.

Sections.
432. Reference by Presidency Magistrate to High Court.
433. Disposal of case according to decision of High Court.
Direction as to costs.
434. Power to reserve questions arising in original jurisdiction of High Court.
Procedure when question reserved.
435. Power to call for records of inferior Courts.
436. Power to order commitment.
437. Power to order inquiry.
438. Report to High Court.
439. High Court's powers of revision.
440. Optional with Court to hear parties.
441. Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.
442. High Court's order to be certified to Lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

Criminal Proceedings against Europeans and Americans.

443. Magistrates who may enquire into and try charges against European British subjects.
444. Sessions Judge to be an European British subject.
Assistant Sessions Judge to have held office for three years and to be specially empowered.
445. Cognizance of offence committed by European British subject.
446. Sentences which may be passed by Provincial Magistrates.
447. When commitment is to be to Court of Session and when to High Court.
448. Trial of offences of which one is, and the others are not, punishable with death or transportation for life.
449. Sentences which may be passed by Court of Session.
Procedure when Sessions Judge finds his powers inadequate.
450. Jury or assessors before High Court or Court of Session.
451. Right of European British subject to claim jury before District Magistrate.
Transfer to another Court in certain cases.
452. Trial of European British subject and Native jointly accused.
When Native may claim separate trial.
453. Procedure on claim of person to be dealt with as European British subject.

SECTIONS.

454. Failure to plead status a waiver.
455. Trial under this Chapter of person not an European British subject.
456. Right of European British subject unlawfully detained to apply for order to be brought before High Court.
457. Procedure on such application.
458. Territories throughout which High Court may issue such orders.
459. Application of Acts conferring jurisdiction on Magistrates or Courts of Session.
460. Jury for trial of Europeans or Americans.
461. Jury when European or American charged jointly with one of another race.
462. Summoning and empanelling jurors under section 450, 451 or 460.
463. Conduct of criminal proceedings against European British subjects, etc.

CHAPTER XXXIV.

LUNATICS.

464. Procedure in case of accused being lunatic.
465. Procedure in case of person committed before Court of Session or High Court being lunatic.
466. Release of lunatic pending investigation or trial.
Custody of lunatic.
467. Resumption of inquiry or trial.
468. Procedure on accused appearing before Magistrate or Court.
469. When accused appears to have been insane.
470. Judgment of acquittal on ground of lunacy.
471. Person acquitted on such ground to be kept in safe custody.
Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.
Power of Local Government to relieve Inspector General of certain functions.
472. Lunatic prisoners to be visited by Inspector General.
473. Procedure where lunatic prisoner is reported capable of making his defence.
474. Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.
475. Delivery of lunatic to care of relative.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. Procedure in cases mentioned in section 195.
477. Power of Court of Session as to such offences committed before itself.

SECTIONS.

478. Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.
479. Procedure of Civil or Revenue Court in such case.
480. Procedure in certain cases of contempt.
481. Record in such cases.
482. Procedure where Court considers that case should not be dealt with under section 480.
483. When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.
484. Discharge of offender on submission or apology.
485. Imprisonment or committal of person refusing to answer or produce document.
486. Appeals from convictions in contempt cases.
487. Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. Order for maintenance of wives and children.
Enforcement of order.
489. Alteration in allowance.
490. Enforcement of order of maintenance.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS*.

491. Power to issue directions of the nature of a *habeas corpus*.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. Power to appoint Public Prosecutors.
493. Public Prosecutor may plead in all Courts in cases under his charge.
Pleaders privately instructed to be under his direction.
494. Effect of withdrawal from prosecution.
495. Permission to conduct prosecution.

CHAPTER XXXIX.

Of Bail.

Sections.

496. In what cases bail to be taken.
497. When bail may be taken in case of non-bailable offence.
498. Power to direct admission to bail or reduction of bail.
499. Bond of accused and sureties.
500. Discharge from custody.
501. Power to order sufficient bail when that first taken is insufficient.
502. Discharge of sureties.

CHAPTER XL.

Of Commission for the Examination of Witnesses.

503. When attendance of witness may be dispensed with.
Issue of commission, and procedure thereunder.
504. Commission in case of witness being within presidency-town.
505. Parties may examine witnesses.
506. Power of provincial Subordinate Magistrate to apply for issue of commission.
507. Return of commission.
508. Adjournment of inquiry or trial.

CHAPTER XLI.

Special Rules of Evidence.

509. Deposition of medical witness.
Power to summon medical witness.
510. Report of Chemical Examiner.
511. Previous conviction or acquittal how proved.
512. Record of evidence in absence of accused.
Record of evidence when offender unknown.

CHAPTER XLII.

Provisions as to Bonds.

513. Deposit instead of recognizance.
514 Procedure on forfeiture of bond.
515. Appeal from, and revision of, orders under section 514.
516. Power to direct levy of amount due on certain recognizances.

CHAPTER XLIII.

Of the Disposal of Property.

517. Order for disposal of property regarding which offence committed.
518. Order may take form of reference to District or Sub-divisional Magistrate.

SECTIONS.
519. Payment to innocent purchaser of money found on accused.
520. Stay of order under section 517, 518 or 519.
521. Destruction of libellous and other matter.
522. Power to restore possession of immoveable property.
523. Procedure by police upon seizure of property taken under section 51 or stolen.
Procedure where owner of property seized unknown.
524. Procedure where no claimant appears within six months.
525. Power to sell perishable property.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

526. High Court may transfer case, or itself try it.
Notice to Public Prosecutor of application under this section.
Adjournment on application under this section.
527. Power of Governor General in Council to transfer criminal cases and appeals.
528. District or Sub-divisional Magistrate may withdraw or refer cases.
Power to authorize District Magistrate to withdraw classes of cases.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

529. Irregularities which do not vitiate proceedings.
530. Irregularities which vitiate proceedings.
531. Proceedings in wrong place.
532. When irregular commitments may be validated.
533. Non-compliance with provisions of section 164 or 364.
534. Omission to ask question prescribed by section 454 (2).
535. Effect of omission to prepare charge.
536. Trial by jury of offence triable with assessors.
Trial with assessors of offence triable by jury.
537. Finding or sentence when reversible by reason of error or omission in charge or other proceedings.
538. Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

539. Courts and persons before whom affidavits may be sworn.
540. Power to summon material witness, or examine person present.

SECTIONS.

541. Power to appoint place of imprisonment.
Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.
542. Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.
543. Interpreter to be bound to interpret truthfully.
544. Expenses of complainants and witnesses.
545. Power of Court to pay expenses or compensation out of fine.
546. Payments to be taken into account in subsequent suit.
547. Money ordered to be paid recoverable as fines.
548. Copies of proceedings.
549. Delivery to military authorities of persons liable to be tried by Court-martial.
Apprehension of such persons.
550. Powers to police to seize property suspected to be stolen.
551. Powers of superior officers of police.
552. Power to compel restoration of abducted females.
553. Compensation to persons groundlessly given in charge in presidency-town.
554. Power of chartered High Courts to make rules for inspection of records of subordinate Courts.
Power of other High Courts to make rules for other purposes.
555. Forms.
556. Case in which Judge or Magistrate is personally interested.
557. Practising pleader not to sit as Magistrate in certain Courts.
558. Power to decide language of Courts.
559. Powers of Governor General in Council and Local Government exerciseable from time to time.
560. Officers concerned in sales not to purchase or bid for property.
561. Special provisions with respect to offence of rape by a husband.

First offenders.

562. Power to Court to release upon probation of good conduct instead of sentencing to punishment.
563. Provision in case of offender failing to observe conditions of his recognizances.
564. Conditions as to abode of offender.

Previously convicted offenders.

565. Order for notifying address of previously convicted offender.

SCHEDULE I.—ENACTMENTS REPEALED.
[As amended by s. 3 of the Currency Notes Forgery Act, 1899 (XII OF 1899).]
SCHEDULE II.—TABULAR STATEMENT OF OFFENCES.
SCHEDULE III.—ORDINARY POWERS OF PROVINCIAL MAGISTRATES.
SCHEDULE IV.—ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.
SCHEDULE V.—FORMS.

(*Part I.—Preliminary. Chapter I.*)

ACT No. V OF 1898[1].

[*22nd March 1898.*]

An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure;

It is hereby enacted as follows:—

PART I.

PRELIMINARY.

CHAPTER I.

Short title. Commencement. Extent.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July 1898.

(*2*) It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 363; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 19; and for Proceedings in Council, *see ibid*, 1897, Pt. VI, pp. 238 and 254; and *ibid*, 1898, pp. 22, 101 and 175.

This Act has been declared, under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code, to be in force (with modifications) in the Santhal Parganas; as to the modifications, *see* the Santhal Parganas Justice Regulation, 1893 (V of 1893), s. 4, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

It has been extended, under s. 5 of the Angul District Regulation, 1894 (I of 1894), Ben. Code, to the District of Angul, with effect from the 1st August 1898—*see* Calcutta Gazette, 1898, Pt. I, p. 779.

It has been declared in force in Upper Burma (except the Shan States, as to which *see* further) subject to certain modifications by the Burma Laws Act, 1898 (XIII of 1898), Bur. Code; as to the modifications, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), as amended by Act XIII of 1898, Bur. Code.

It has been declared in force in the Chittagong Hill-tracts (with a reservation as to cases tried by certain persons) by s. 4 of the Chittagong Hill-tracts Regulation, 1900 (I of 1900), Ben. Code.

It has ceased to be in force, by notification under s. 2 of he Assam Frontier Tracts Regulation, 1880 (II of 1880), E. B. and A. Code, in the following places, namely:—

The Gáro Hills, the Khási and Jaintiá Hills, the Nágá Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hill-tracts in the Naugong District, the Dibrugarh Frontier Tracts in the Lakhimpur District, and the Lushai Hills—*see* Assam Gazette, 1898, Pt. II, p. 788.

As to its application in (1) certain districts on the Sindh Frontier, *see* the Sindh Frontier Regulation, 1872 (V of 1872), s. 11, and the Sindh Frontier Regulation, 1892 (III of 1892); Bom. Code; (2) the Andaman and Nicobar Islands, *see* Regulation III of 1876, s. 13, as amended by Regulation I of 1884, s. 3.

power[1] conferred, or any special form of procedure prescribed, by any other law for the time being in force,[2] or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;[3]

(*b*) heads of villages in the Presidency of Fort St. George[4]; or

(*c*) village police-officers in the Presidency of Bombay[5]:

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor General in Council, by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

Repeal of enactments.

2. (*1*) On and from the first day of July 1898, the enactments mentioned in the first schedule shall be repealed, to the extent specified in the fourth column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

Notifications, etc., under repealed Acts.

(*2*) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed, and orders, rules and appointments made, under any enactment hereby repealed, or under any

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It has been declared in force, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Scheduled Districts in Ganjam and Vizagapatam—*see* Fort St. George Gazette, 1898, Pt. I, p. 306, and Gazette of India, 1898, Pt. I, p. 869; and by notification under the same section and section 5A in the following other Scheduled Districts, namely:—

the Districts of Házaribágh, Lohárdaga (now the Ranchi District—*see* Calcutta Gazette, 1899, Pt. I, p. 44), Mánbhum and Palamau and in Pargana Dhálbhum and the Kolhan in the Singbhum District—*see* Calcutta Gazette, 1898, Pt. I, p. 714, and Gazette of India, 1899, Pt. I. p. 779; and in the Pargana of Manpur—*see* Gazette of India, 1899, Pt. I, p. 419. The powers of the Local Government were at the same time conferred on the Agent, Governor General, Central India, and also those of a High Court for the purposes of the Code.

It has been extended, by notification under ss. 5 and 5A of Act XIV of 1874 to British Baluchistan—*see* Gazette of India, 1898, Pt. II, p. 221.

It was extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895, as amended by notification No. 29, dated 19th December 1908, Bur. Code.

Certain portions of the Code have been declared, by notification under s. 3 (*2*) of the Kachin Hill-tribes Regulation, 1895 (I of 1895), to be applicable to members of a hill-tribe in a hill-tract; and under s. 3 (*2*) of the Chin Hills Regulation, 1896 (V of 1896), certain portions have been declared to be applicable to Chins in the Chin Hills—*see* Burma Gazette, 1898, Pt. I, p. 322; *see* also Bur. Code.

[1] As to power of Governor General in Council to make rules conferring powers of original criminal jurisdiction on Indian Marine Courts, *see* the Indian Marine Courts Act, 1887 (XIV of 1887), s. 70 (*2*), General Acts, Vol. IV.

[2] *See* for example the Indian Articles of War (Act V of 1869), General Acts, Vol. II.

[3] As to Calcutta, *see* the Calcutta Police Act, 1866 (Ben. Act IV of 1866; as to Madras, *see* the Madras City Police Act, 1888 (Mad. Act III of 1888), Mad. Code; as to Bombay, *see* the Bombay City Police Act, 1902 Bom. Act IV of 1902), Bom. Code.

[4] *See* Mad. Regulation XI of 1816, Mad. Code, and Mad. Regulation IV of 1821, *ibid.*

[5] *See* the Bombay Village Police Act, 1867 (Bom. Act VIII of 1867), Bom. Code.

enactment repealed by any such enactment and which are in force immediately before the first day of July 1898, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

Pending cases.

(*3*) The provisions of this Code shall apply to all proceedings instituted after the commencement of this Code, and, so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

References to Code of Criminal Procedure and other repealed enactments.

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

Expressions in former Acts.

(*2*) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

Definitions.

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

"Advocate General."

(*a*) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf:

"Bailable offence."

"Non-bailable offence."

(*b*) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence:

"Charges."

(*c*) "charge" includes any head of charge when the charge contains more heads than one:

(*d*) "Chief Justice" includes also the Chief Judge of the Chief Court of the Punjab and the [Chief or Senior Judge of the Chief Court of Lower Burma][1]; "Chief Justice."

(*e*) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown: "Clerk of the Crown."

(*f*) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant: "Cognizable offence." "Cognizable case."

(*g*) "Commissioner of Police" includes a Deputy Commissioner of Police: Commissioner of Police."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer: "Complaint."

(*i*) "European British subject" means— "European British subject."

(*i*) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal;

(*ii*) any child or grand-child of any such person by legitimate descent:

(*j*) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects,[2] the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the [3][Chief Court of Lower Burma][1]: in other cases "High Court" means the highest Court of Criminal appeal or revision for any local area; or, where no such Court is established under any "High Court."

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[1] These words were substituted for the words "Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 47 and First Schedule.

[2] *See* Chapter XXIII, *infra*.

[3] These words were substituted for the words "Court of the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and First Schedule.

law for the time being in force, such officer as the Governor General in Council may appoint in this behalf :[1]

"Inquiry." (*k*) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court :

"Investigation." (*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf :

"Judicial proceeding." (*m*) "judicial proceeding" [2] includes any proceeding in the course of which evidence is or may be legally taken on oath :

"Non-cognizable offence." "Non-cognizable case." (*n*) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant :

"Offence." (*o*) "offence" means any act or omission made punishable by any law for the time being in force ;

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 [3]; I of 1871.

"Officer in charge of a police-station." (*p*) "officer in charge of a police station[4] includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present :

"Place." (*q*) "place" includes also a house, building, tent and vessel :

"Pleader." (*r*) "pleader," used with reference to any proceeding in any Court,

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[1] As to (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. 1, as amended by the Burma Laws Act, 1898 (XIII of 1898), Bur. Code ; (2) the Santhal Parganas, *see* the Santhal Parganas Justice Regulation, 1893 (V of 1893), s. 4, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code ; (3) Ajmer-Merwara, *see* s. 38 of the Ajmer Courts Regulation, 1877 (I of 1877), Aj. Code, p. 155 ; (4) Coorg, *see* s. 16 of the Coorg Courts Regulation 1901 (I of 1901), Coorg Code ; (5) Oudh, *see* the Oudh Courts Act, 1891 (XIV of 1891), as amended by Act XVI of 1897, U. P. Code ; (6) the North-West Frontier Province, *see* s. 6 (*l*) (*c*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code ; (7) Baluchistan, *see* art. 6 (1) (ii) of the schedule to the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code.

[2] *Cf.* the Indian Penal Code (Act XLV of 1860), s. 193, *explanation* 1, General Acts, Volume I.

[3] General Acts, Vol. II.

[4] *Cf.* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, arts. 6 and 7, Bur. Code.

means a pleader authorized under any law[1] for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding :

"Police-station."

(*s*) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf :

"Public Prosecutor."

(*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :

"Sub-division."

(*u*) "sub-division" means a sub-division of a district ;[2]

"Summons-case."

(*v*) "summons-case" means a case relating to an offence, and not being a warrant-case : and

"Warrant-case."

(*w*) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to acts.

(*2*) Words which refer to acts done, extend also to illegal omissions ; and all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

Words to have same meaning as in Indian Penal Code.

XLV of 1860.

XLV of 1860.

Trial of offences under Penal Code.

5. (*1*) All offences under the Indian Penal Code[3] shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained.

Trial of offences against other laws.

(*2*) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

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[1] *See* the Legal Practitioners Act, 1846 (I of 1846) ; the Legal Practitioners Act, 1853 (XX of 1853) ; the Legal Practitioners Act, 1879 (XVIII of 1879) ; the Legal Practitioners Act, 1884 (IX of 1884) ; and the Legal Practitioners Amendment Act, 1908 (I of 1908).

In Upper Burma, *see* s. 25 of the Upper Burma Civil Courts Regulation, 1896 (I of 1896), and notification thereunder in Burma Gazette, 1900, Pt. IV, p. 384 ; in British Baluchistan, *see* s. 20 (*1*) (*c*) of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code ; in the North-West Frontier Province, *see* s. 9 of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code. *See* also rules issued under s. 9 in Gazette of India, 1902, Pt. II, p. 5.

[2] *See* s 8, *infra*.

[3] General Acts, Vol. I.

PART II.
CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.
OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

Classes of Criminal Courts.

[1]6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely:—

I.—Courts of Session:

II.—Presidency Magistrates:

III.—Magistrates of the first class:

IV.—Magistrates of the second class:

V.—Magistrates of the third class.

B.—Territorial Divisions.

Sessions divisions and districts.

[2]7. (*1*) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions: and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Power to alter divisions and districts.

(*2*) The Local Government[3] may alter the limits or, with the previous

[1] In places where the Punjab Frontier Crimes Regulation is in force, cases may be tried by a Council of Elders. *See* the Punjab Frontier Crimes Regulation, 1901 (III of 1901), s. 11, P. and N. W. Code; *see* also s. 13 of the same Regulation for executing sentences passed on the finding of a Council of Elders. For bar of second trial before any of these Courts, *see* same Regulation, s. 15.

[2] As to Courts of Session in Upper Burma, *see* Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. 11, Bur. Code; in Lower Burma, see Burma Gazette, 1908, Pt. I, p. 159.

[3] For notification dividing the districts of the North-West Frontier Province into sessions divisions, *see* Gazette of India, 1901, Pt. II, p. 1304.

For notification issued in the Central Provinces under this section, *see* Central Provinces Gazette, 1904, Pt. III, p. 431.

For notifications by the Madras Government, *see* Mad. R. and O.; and by the Punjab Government, *see* Pun. R. and O.

For notification by the Government of Bombay directing that the Panch Mahals District shall form part of the Broach Sessions Division, *see* Bombay Government Gazette, 1905, Pt. I, p. 635.

For notification by the Government of Bengal that the Sambalpur District shall be included within the Cuttack Division, *see* Calcutta Gazette, 1905, Pt. I, p. 1804; and directing that the Sessions Court shall exercise its jurisdiction either at Sambalpur or Cuttack, *see ibid.*

For notification declaring that the Darjiling District shall be included within the limits of the Purnea Division, *see* Calcutta Gazette, 1905, Pt. I, p. 1805.

For notification by the Chief Commissioner, Central Provinces, declaring that certain estates which formed part of the Sambalpur District shall be included in the Bilaspur and Raipur Districts of the Chhattisgarh Division, *see* Central Provinces Gazette, 1905, Pt. III, p. 544.

For notification by the Chief Commissioner of Assam extending the limits of the Sessions Division of the Assam Valley Districts so as to include the tract transferred by Notification No. 1436-P., dated the 11th April 1901, from the Naga Hills to the Sibsagar District, *see* Assam Gazette, 1903, Pt. II, p. 122.

For notification by the Government of Burma fixing the limits of the Rangoon Town District for the purposes of revenue and general administration, under this section, *see* Burma Gazette, 1903, Pt. I, p. 166.

sanction of the Governor General in Council, the number of such divisions and districts.

Existing divisions and districts maintained till altered.

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts.

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

Power to divide districts into sub-divisions.

8. (*1*) The Local Government[1] may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.

Existing sub-divisions maintained.

(*2*) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

Court of Session.

9.[2] (*1*) The Local Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court.

(*2*) The Local Government may, by general or special order in the official Gazette[3], direct at what place or places the Court of Session shall hold its sitting; but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

(*3*) The Local Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(*4*) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(*5*) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

[1] For instances of notifications under this clause, *see* (1) Bombay Government Gazette, 1905, Pt I, p. 672; (2) Central Provinces Gazette, 1905, Pt. III, p. 505; (3) Madras Government, *see* Mad. R. and O. and Fort St. George Gazette, 1906, Pt. I, p. 1181; (4) United Provinces, *see* U. P. R. and O.; (5) Burma, *see* Bur. R. M.

[2] For notifications under this sub-section by the Government of the Punjab, *see* Punjab Gazette, 1901, Pt. I, p. 1167; for notifications by the Chief Commissioner of the North-West Frontier Province, *see* Gazette of India, 1901, Pt. II, p. 1136; for notification for Coorg appointing the Commissioner to be Sessions Judge, *see* Coorg Gazette, 1905, Pt. I, p. 91; for Madras, *see* Mad. R. and O.; for Lower Burma, *see* Burma Gazette, 1908, Pt. I, p. 159.

[3] For notification directing that the Broach Sessions Court shall hold its sittings at Godhra, for purposes of cases from the Panch Mahals District, *see* Bombay Government Gazette, 1905, Pt. I, p. 634.

District Magistrate.

10. (*1*) In every district outside the presidency-towns the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(*2*) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate for a period not exceeding six months, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code as the Local Government may direct.

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. (*1*)[1] The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the Local Government or the District Magistrate, subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction.

(*2*) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of sub-division.

13. (*1*) The Local Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(*2*) Such Magistrates shall be called Sub-divisional Magistrates.

Delegation of powers to District Magistrate.

(*3*) The Local Government may delegate its powers under this section to the District Magistrate.[2]

Special Magistrates.

14. (*1*) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular

[1] For notification by the Government of Bengal under this section, *see* Calcutta Gazette, 1902, Pt I, p. 1112; by the Chief Commissioner, Ajmer-Merwara, *see* Gazette of India, 1902, Pt. II, p. 1082; *ibid*, 1908, Pt. II, p 132; by Chief Commissioner, Coorg, *see* Coorg District Gazette, 1905, Pt. I, p. 62; by the Government of Burma, *see* Burma Gazette, 1905, Pt. I, p. 136; *see* also the lists of local rules and orders.

[2] For delegation of such powers by the Chief Commissioner, Central Provinces, *see* Central Provinces Gazette, 1905, Pt. III, p. 505; by the Government of Madras, *see* Mad. R. and O.

class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(*3*) With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (*1*).

(*4*) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.[1]

Benches of Magistrates.

15.[2] (*1*) The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

Powers exerciseable by Bench in absence of special direction.

(*2*) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches.

16. The Local Government may[3], or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules con-

[1] Notwithstanding anything contained in s. 14, any police-officer in Assam not below the grade of Assistant District Superintendent may be invested with all or any of the powers conferred or conferrable on a Magistrate of the first, second or third class in respect to non-cognizable cases. *See* the Assam Police-officers Regulation, 1883 (II of 1883), s. 4, E. B. and A. Code.

As to conferment of magisterial powers on police-officers in Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. III; in the Salween and Arakan Districts, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 9, Bur. Code.

As to the Police on the Punjab Frontier and in the North-West Frontier Province, *see* the Punjab Frontier Police-officers Regulation, 1893 (VII of 1893), s. 1, P. and N. W. Code.

[2] For instance of the appointment of such a Bench of Magistrates, *see* Fort St. George Gazette, 1902, Pt. I. p. 23.

[3] For instance of such rules, *see* Fort St. George Gazette, 1898, Pt. I, p. 293; Mad. R. and O.; Assam Rules Manual and Assam Gazette, 1901, Pt. II, p. 413; Ben. R. and O.; Burma Gazette, 1905, Pt. I, p. 546; Central Provinces Gazette, 1904, Pt. III, p. 183.

sistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate ;

17. (*1*) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

To Sub-divisional Magistrate.

(*2*) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordination of Assistant Sessions Judges to Sessions Judge.

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(*5*) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

Appointment of Presidency Magistrates.

18. (*1*) The Local Government shall, from time to time, appoint sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town.

(*2*) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency

Magistrate, or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates. Benches.

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law [1] for the time being in force for the regulation of ports and port-dues. Local limits of jurisdiction.

21. (*1*) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules[2] consistent with this Code to regulate— Chief Presidency Magistrate.

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(*b*) the times and places at which Benches of Magistrates shall sit;

(*c*) the constitution of such Benches;

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session; and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(*2*) The Local Government may, for the purposes of this Code,[3] declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the presidency-towns, Justices of the Peace for the mufassal.

[1] *See* the Indian Ports Act, 1908 (XV of 1908), General Acts, Vol. VI.

[2] For rules under this section, made by the Chief Presidency Magistrate of (1) Madras, *see* Fort St. George Gazette, 1901, Pt. I, p. 1414; (2) Calcutta, *see* Calcutta Gazette, 1904, Pt. I, p. 1371; (3) the town and island of Bombay, *see* Bombay Gazette, 1905, Pt. I, p. 649.

[3] For notification under this sub-section affecting the Presidency Magistrates in Calcutta, *see* Calcutta Gazette, 1903, Pt. I, p. 1321.

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Justices of the Peace for the Presidency-towns.

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

Present Justices of the Peace.

24. (*1*) Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

(*2*) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

Ex-officio Justices of the Peace.

[1]**25.** In virtue of their respective offices, the Governor General, Governors, Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor General, [2][and the Judges of the High Courts] are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

Suspension and removal of Judges and Magistrates.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

[1] *Cf.* the East India Company Act, 1772 (13 Geo. III. c. 63), s. 38, Coll. Stat., Vol. I.

[2] These words were substituted for the words "the Judges of the High Courts and the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 & First Schedule.

(Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter II.—Of the Constitution of Criminal Courts and Offices. Chapter III.—Powers of Courts.)

Suspension and removal of Justices of the Peace.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code any offence under the Indian Penal Code may be tried— XLV of 1860.

(*a*) by the High Court, or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws.

29. (*1*) Subject to the provisions of section 447, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(*2*) When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

Offences not punishable with death.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab[1] and Burma and the Chief Commissioners of Oudh[2], the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may[3], notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

[1] These territories included, at the time the Code was passed, the territories which now form the North-West Frontier Province.

[2] This title now merges in that of the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228.

[3] For notification investing the Assistant Commissioner of Ajmere, being a District Magistrate with powers to try as a Magistrate all offences not punishable with death, *see* Gazette of India, 1899, Pt. II, p. 420.

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Courts and Sessions Judges may pass.

31. (*1*) A High Court may pass any sentence authorized by law.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.[1]

(*3*) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

Sentence which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences, namely :—

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class :	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law[2]; Fine not exceeding one thousand rupees; Whipping.
(*b*) Courts of Magistrates of the second class :	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law[2]: Fine not exceeding two hundred rupees; [3] * * * *
(*c*) Courts of Magistrates of the third class :	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

(*2*) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

[3] * * * *

Power of Magistrates to sentence to imprisonment in default of fine. Proviso as to certain cases.

33. (*1*) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default:

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code :

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[1] *See* s. 374, *infra*.

[2] *See* the Indian Penal Code (Act XLV of 1860), ss. 73 and 74, General Acts, Vol. I.

[3] The words "Whipping (if specially empowered)" in sub-section (*1*) and sub-section (*3*) were repealed by the Whipping Act, 1909, (IV of 1909) General Acts, Vol. VI, Appendix.

(*b*) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(*2*) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District Magistrates.

34 The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

Sentence in cases of conviction of several offences at one trial.

35. (*1*) When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court.

Provided as follows :—

Maximum term of punishment.

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years :

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(*3*) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Explanation.—Separable offences which come within the provisions of section 71 of the Indian Penal Code[1] are not distinct offences within the meaning of this section.

XLV of 1860.

[1] General Acts, Vol. I.

Illustration.

A breaks into a house with intent to commit theft and steals property therein. A has not committed distinct offences.

C.—Ordinary and additional Powers.

Ordinary powers of Magistrate.

[1]**36.** All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

Additional powers conferrable on Magistrates.

[1]**37.** In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

Mode of conferring powers.

39. (*1*) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

(*2*) Every such order shall take effect from the date on which it is communicated to the person so empowered.[2]

Continuance of powers of officers transferred.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

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[1] As to powers of Magistrates in Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892) Schedule, art. V, Bur. Code.

For notification conferring certain additional powers on classes of Magistrates in (1) the North-West Frontier Provinces, *see* Gazette of India, 1904, Pt II, p. 667 ; (2) the Punjab, *see* Punjab Gazette, 1901, Pt. I p.1231.

[2] For instances of notifications issued under this power, see Fort St. George Gazette, 1900, Pt. I, p. 1103 ; Coorg District Gazette, 1905, Pt. I, p. 62.

Powers of a Magistrate of the 3rd class conferred on all subedars in Coorg.

(Part II.—Constitution and Powers of Criminal Courts and Offices. Chapter III.—Powers of Courts. Part III.—General Provisions. Chapter IV.—Of Aid and Information to the Magistrates, the Police and Persons making Arrests.)

Powers may be cancelled.

41. (*1*) The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrates and police.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 306, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

XLV of 1860.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

Village headmen, accountants, land holders and others bound to report certain matters.

[1]**45.** (*1*) Every village-headman, village-accountant, village-watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent:

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code;[2]

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances; XLV of 1860.

(*e*) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code,[2] namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands; and

[1] This section does not apply to areas in which the Burma Village Act, 1907 (Bur. Act VI of 1907) is in force, *see* s. 7 (2) of that Act.

[2] General Acts, Vol. I.

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code [1], namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

XLV of 1860.

(*3*) Subject to rules [2] in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Arrest how made.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

Resisting endeavour to arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life. [3]

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Search of place entered by person sought to be arrested.

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case

Procedure where ingress not obtainable.

[1] General Acts, Vol. I.

[2] For rules made for Bengal, *see* Ben. R. and O.; for the Dacca Division, *see* Eastern Bengal and Assam Gazette, 1908, Part II, p. 919.

[3] As to addition with which s. 46 is to be read in places in which the Punjab Frontier Crimes Regulation, 1901 (III of 1901), is in force, *see* s. 38 (*ii*) of that Regulation, P. and N. W. Code, and s. 3, *supra*.

in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Breaking open zanána

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape. [1]

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him. [2]

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before

[1] For penalty for unwarrantable personal violence by a police-officer to a person in his custody *see* s. 29 of the Police Act, 1861 (V of 1861), General Acts, Vol. I.

[2] As to disposal of such property, *see* s. 523, *infra*.

which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

54. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest— When police may arrest without warrant.

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service;

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881[1], or otherwise, liable to be apprehended or detained in custody in British India; and

44 & 45 Vict., c. 69.

[1] Coll. Stat., Vol. II.

[1] *eighthly*—any released convict committing a breach of any rule made under section 565, sub-section (*3*).

(*2*) This section applies also to the police in the town * [1] of Calcutta * * *.[2]

Arrest of vagabonds, habitual robbers, etc.

[3]55. (*1*) Any officer in charge of a police-station may, in like manner, arrest or cause to be arrested—

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence, or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

(*2*) This section applies also to the police in the town *[2] of Calcutta * * *.[2]

Procedure when police-officer deputes subordinate to arrest without warrant.

56. (*1*) When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

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[1] For some other cases in which the police may arrest without warrant, *see* Wigley's Index of Indian Statutes, title, Criminal Procedure, Arrest, Escape and Retaking, and the following Acts:—
the Indian Forest Act, 1878 (VII of 1878), s. 63, General Acts, Vol. II;
the Indian Emigration Act, 1908, s. 82, General Acts, Vol. VI;
the Rangoon Tramways Act, 1883 (XXII of 1883), s. 82, Bur. Code;
the Explosives Act, 1884 (IV of 1884), s. 13, General Acts, Vol. III;
the Punjab Municipalities Act, 1891 (XXI of 1891), ss. 81 and 83, P. and N. W. Code;
the Burma Gambling Act, 1899 (Bur. Act I of 1899), s. 5, Bur. Code;
the Burma Municipal Act, 1898 (Bur. Act III of 1898), s. 194, *ibid*;
the Burma Forest Act, 1902 (Bur. Act IV of 1902), s. 47 (*1*);
the Burma Highways Act, 1907 (Bur. Act V of 1907), s. 4;
the Cantonments Act, 1889 (XIII of 1889), s. 15 (*1*), General Acts, Vol. IV.

[2] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

[3] In Upper Burma, any police-officer may exercise the powers conferred by this section on a police-officer in charge of a police-station — *see* Schedule (Art. VI) to the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Bur. Code; so also in the North-West Frontier Province, *see* the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), s. 13, P. and N. W. Code.

(*2*) This section applies also to the police in the town * [1] of Calcutta * * *.[1]

Refusal to give name and residence.

[2] **57.** (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in British India.

Arrest by private persons.

[3] **59.** (*1*) Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

Procedure on such arrest.

and shall, without unnecessary delay, make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person to the nearest police-station.

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

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[1] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

[2] As to power of detention by officer in charge of a police-station in Upper Burma, *see* Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Bur. Code; s. 57 (*2*) and (*3*) and ss. 60 to 63 apply in cases of arrest under s. 4 of the Burma Highways Act, 1907 (Bur. Act V of 1907).

[3] *Cf.* s. 38 (*1*) of the Frontier Crimes Regulation, 1901 (III of 1901), P. and N. W. Code.

Person arrested to be taken before Magistrate or officer in charge of police-station.

[1] **60.** A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours.

[1,2] **61.** No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Police to report apprehensions.

[1] **62.** Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended.

[1] **63.** No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail[3], commit the offender to custody.

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued, may immediately pursue and arrest him in any place in British India.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

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[1] *See* note to s. 57, *supra*.

[2] As to power of detention by officer in charge of police-station in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Bur. Code; and (2) British Baluchistan, *see* s. 7 (*1*) of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code.

[3] *See* Chapter XXXIX, *infra*.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

Form of summons.

68. (*1*) Every summons [1] issued by a Court under this Code shall be in writing, in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Summons by whom served.

(*2*) Such summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Summons how served.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(*2*) Every person on whom a summon is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

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[1] For forms, *see* Sch. V, Forms I and XXXI, *infra*.

Service on servant of Government or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.[1]

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*2*) The endorsement[2] shall state—

(*a*) the number of sureties;

[1] These provisions apply to warrants issued under s. 10 of the Upper Burma Ruby Regulation, 1887 (XII of 1887), *see* sub-sec. (*2*) of that section, Bur. Code.

[2] For forms, *see* Sch. V, Form II.

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound ; and

(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(*3*) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

77. (*1*) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available direct it to any other person or persons; and such person or persons shall execute the same.

Warrant to several persons.

(*2*) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc.

78. (*1*) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(*2*) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(*3*) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in British India.

Warrant forwarded for execution out-side jurisdiction.

83. (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed.

[1](*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(*2*) Such Magistrate or police-officer shall endorsehis name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the town [2]* of Calcutta * [2]*

Procedure on arrest of person against whom warrant issued.

[1]**85.** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police

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[1] Sub-sec. (*2*) of this section and ss. 85, 86 and 155, so far as they apply to the police in the Town of Bombay, have been repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902)—*see* s. 2 (*1*) of that Act, Bom. Code.

[2] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), *ibid.*

in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

Procedure by Magistrate before whom person arrested is brought.

[1]**86.** (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security[2], as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding.

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation[3] requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(*2*) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(*3*) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

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[1] *See* first footnote under s. 88 (2), *supra*.
[2] *See* Sch. V, Form III, *infra*.
[3] *See* Sch. V, Forms IV and V, *infra*.

Attachment of property of person absconding.

88. (*1*) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(*2*) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(*3*) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(*a*) by seizure; or

(*b*) by the appointment of a receiver; or

(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(*d*) by all or any two of such methods, as the Court thinks fit.

(*4*) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(*e*) by taking possession; or

(*f*) by the appointment of a receiver; or

(*g*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(*h*) by all or any two of such methods, as the Court thinks fit.

(*5*) If the property ordered to be attached consists of livestock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(*6*) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure [1].

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

Restoration of attached property.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant[1] for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

[1] *See* Sch. V, Form VII, *infra*.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

Summons to produce document or other thing.

94. (*1*) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872,[1] sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. I of 1872.

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(*2*) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

[1] General Acts, Vol. II.

(Part III.—General Provisions. Chap. VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined.)

B.—Search-warrants[1].

When search-warrant may be issued.

96. (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (*1*), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(*2*) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain stolen property, forged documents, etc.

98. (*1*) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

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[1] These provisions apply to searches under s. 9 (*1*) and (*2*) of the Upper Burma Ruby Regulation, 1887 (XII of 1887) *see* s. 9 (*3*) of that Regulation, Bur. Code.

For power to invest any Forest-officer with power to issue such warrants (1) in Burma, *see* the Burma Forest Act, 1902 (Bur. Act IV of 1902), s. 74 (*c*); (2) in British Baluchistan, *see* s. 25 (*1*) (*b*) of the British Baluchistan Forest Regulation, 1890 (V of 1890), Bal. Code; (3) in Madras, *see* s. 59 (*c*) of the Madras Forest Act, 1882 (Mad. Act V of 1882), Mad. Code; and (4) in the rest of British India generally, under the Indian Forest Act, 1878 (VII of 1878), *see* s. 71 (*c*) of the Act, General Acts, Vol. II.

he may by his warrant [1] authorize any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(*2*) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889,[2] or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,[3] I of 1889. VIII of 1878.

[1] *See* Sch. V, Form IX, *infra*.
[2] General Acts, Vol. IV.
[3] General Acts, Vol. II.

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

C.—Discovery of Persons wrongfully confined.

Search for persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to searches.

Direction, etc., of search-warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

Persons in charge of closed place to allow search.

102. (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(*3*) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such

person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

E.—Miscellaneous.

Power to impound document, etc., produced.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII[1].

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction.

106. (*1*) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling

[1] Ss. 20 to 26 of the Sind Frontier Regulation, 1892 (III of 1892), Bom. Code, are to be read with and construed as part of this Chapter—*see* s. 27 of that Regulation, and s. 3, *supra*.

armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond[1] for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(*2*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*3*) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases.

107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(*2*) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

Procedure of Magistrate not empowered to act under sub-section (*1*).

(*3*) When any Magistrate not empowered to proceed under sub-section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may

[1] *See* Sch. V, Form X, *infra*.

probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate, or in any-wise abets the dissemination of,—

(*a*) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code[1], or XLV of 1860.

(*b*) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867[1], except by the order or under the authority of the Governor General in Council or the Local Government or some officer empowered by the Governor General in Council in this behalf. XXV of 1867.

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[1] General Acts, Vol. I.

Security for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour for habitual offenders.

110. Whenever a Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker or thief, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(*d*) habitually commits mischief, extortion or cheating or counterfeiting coin, currency notes or stamps, or attempts so to do, or

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix[1].

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[1] In Burma (excepting the Shan States) on receipt of information that a person earns his livelihood wholly or in part by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, such person may be dealt with as if the information received about him were of the description mentioned in this section—*see* s. 17 of the Burma Gambling Act, 1899 (Bur. Act I of 1899), Bur. Code.

Proviso as to European vagrants.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874[1]. IX of 1874.

Order to be made.

[2] [3]**112.** When a Magistrate acting under section 107,[4] section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, he term for which it is to be in force, and the number, character and class of sureties (if any) required.

Procedure in respect of person present in Court.

[2] [3]**113.** If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

[3]**114.** If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 112 to accompany summons or warrant.

[2] [3]**115.** Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

Power to dispense with personal attendance.

[3]**116.** The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

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[1] General Acts, Vol. II.

[2] Ss. 112, 113, 115 and 117 do not apply to an enquiry under s. 22 of the Sindh Frontier Regulation, 1892 (III of 1892), Bom. Code, or under s. 42 of the Frontier Crimes Regulation, 1901 (III of 1901), Punj. Code.

[3] Ss. 112 to 125 apply to all cases requiring security for good behaviour under the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887 (IX of 1887)—*see* s. 5 (2), Bur. Code; and under s. 6 of the Punjab Frontier Crossing Regulation, 1873 (VII of 1873), Punj. Code.

Inquiry as to truth of information.

[1] [2] **117.** (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(*2*) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and, where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(*3*) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(*4*) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security.

[1]**118.** (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly :

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112 :

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive :

thirdly, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

[1]**119.** If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case

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[1] *See* the second footnote under s. 112, *supra*.

[2] *See* the first footnote under s. 112, *supra*.

may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

[1]**120.** (*1*) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(*2*) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of bond.

[1]**121.** The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

[1]**122.** A Magistrate may refuse to accept any surety offered under this Chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

Imprisonment in default of security.

[1]**123.** (*1*) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given, commences, he shall, except in the case next hereinafter mentioned, be committed to prison[2], or, if he is already in prison, be detained in prison[3] until such period expires or until within such period he gives the security[4] to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court or Court o Session.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

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[1] *See* the second footnote under s. 112, *supra*.
Sections 120 to 126 have been declared to apply to the security required under s. 31A of the Rangoon Police Act, 1899 (Burma Act IV of 1899), Bur. Code.

[2] *See* Sch. V, Forms XIII and XIV, *infra*.

[3] As to punishment for escaping or attempting to escape, *see* s. 224 of the Indian Penal Code (Act XLV of 1860), General Acts, Vol. I.

[4] *See* Sch. V, Form XV, *infra*.

(*3*) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(*4*) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(*5*) Imprisonment for failure to give security for keeping the peace shall be simple. **Kind of imprisonment.**

(*6*) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

[1]**124.** (*1*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged. **Power to release persons imprisoned for failing to give security.**

(*2*) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(*3*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.[2]

[1] [3]**125.** The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court. **Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.**

[1] *See* the second footnote under s. 112, *supra*.
[2] *See* Sch. V, Form XV, *infra*.
[3] *See* note to s. 120, *supra*.

Discharge of sureties.

[1]126. (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(*3*) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123, and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX[2].

UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or police-officer.

127. (*1*) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(*2*) This section applies also to the police in the town*[3] of Calcutta * * *.[3]

Use of civil force to disperse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869[4], and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining XX of 1869.

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[1] *See* note to s. 120, *supra*.

[2] The whole of this Chapter, so far as it applies to the City of Bombay, is repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902)—*see* s. 2(*1*) and Schedule.

[3] The letter "s" and the words "and Bombay" were repealed by s. 2 (*1*) of the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

[4] General Acts, Vol. II.

the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (*1*) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869[1], to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

XX of 1869.

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter.

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council; and—

(*a*) no Magistrate or police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

[1] General Acts, Vol. II.

CHAPTER X.

PUBLIC NUISANCES.

Conditional order for removal of nuisance.

133. (*1*) Whenever a District Magistrate[1], a Sub-Divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a police-report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order[2] requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation; or

to remove such goods or merchandise; or

to prevent or stop the construction of such building; or

to remove, repair or support it; or

to alter the disposal of such substance; or

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[1] The powers of a District Magistrate under this section may be conferred on Municipal Committees in the Central Provinces, and thereupon the provisions of ss. 133 to 142, both inclusive, with a modification in s. 133 apply to all proceedings taken in exercise of the powers so conferred—*see* the Central Provinces Municipal Act, 1903 (XVI of 1903), s. 107, C. P. Code.

[2] *See* Sch. V, Form XVI, *infra*.

to fence such tank, well or excavation, as the case may be; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(*2*) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A "public place" includes also property belonging to the State, camping-grounds and grounds left unoccupied for sanitary and recreative purposes.

Service or notification of order.

134. (*1*) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(*2*) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury.

135. The person against whom such order is made shall—

(*a*) perform within the time specified in the order, the act directed thereby; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code,[1] and the order shall be made absolute.

XLV of 1860.

Procedure where he appears to show cause.

137. (*1*) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-cause.

(*2*) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(*3*) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims jury.

138. (*1*) On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(*a*) forthwith appoint a jury[2] consisting of an uneven number of persons not less than five, of whom the foreman and one-half

[1] General Acts, Vol. I.

[2] *See* Sch. V, Form XVII, *infra*.

of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

(*2*) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure where jury finds Magistrate's order to be reasonable.

139. (*1*) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(*2*) In other cases, no further proceedings shall be taken under this Chapter.

Procedure on order being made absolute.

140. (*1*) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice[1] of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.[2] XLV of 1860.

Consequences of disobedience to order.

(*2*) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(*3*) No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Injunction pending inquiry.

142. (*1*) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or

[1] *See* Sch. V, Form XVIII, *infra*.
[2] General Acts, Vol. I.

injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction[1] to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(*2*) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(*3*) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order[2] any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code[3] or any special or local law.

XLV of 1860.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Sub-divisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order[4] stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(*2*) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

[1] *See* Sch. V, Form XIX, *infra*.
[2] *See* Sch. V, Form XX, *infra*.
[3] General Acts, Vol I.
[4] *See* Sch. V, Form XXI, *infra*.

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(*4*) Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(*5*) No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.[1]

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (*1*) Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(*2*) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

Inquiry as to possession.

(*4*) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further

[1] For instances of notifications directing certain orders to be made permanent, (1) in Madras, *see* Mad. R. and O.; (2) in the United Provinces, *see* United Provinces Gazette, 1902, Pt. I, p. 837.

evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject:

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(*5*) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (*1*) shall be final.

Party in possession to retain possession until legally evicted.

(*6*) If the Magistrate decides that one of the parties was in such possession of the said subject, he shall issue an order[1] declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.[2]

(*7*) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

Power to attach subject of dispute.

146. (*1*) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach[1] it until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

(*2*) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure.[3]

XIV of 1882.

Disputes concerning easements, etc.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or water (including any right of way or other easement over the same) within the local limits of his jurisdiction, he may inquire into the

[1] *See* Sch. V, Form XXIII, *infra*.

[2] For limitation of suits to recover possession of such property, *see* the Indian Limitation Act, 1908 (IX of 1908), Sch. I, Art. 47, General Acts, Vol. VI.

[3] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

matter in manner provided by section 145, and may, if it appears to him that such right exists, make an order[1] permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be :

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exerciseable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry ; or, where the right is exerciseable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or occasions before such institution.

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(*2*) The report of the person so deputed may be read as evidence in the case.

Order as to costs.

(*3*) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses, or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

Preventive Action of the Police.

Police to prevent cognizable offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

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[1] *See* Sch. V, Form XXIV, *infra*.

Arrest to prevent such offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

153. (*1*) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(*2*) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information in non-cognizable cases.

[1]155. (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

[1] This section, so far as it applies to the police in the Town of Bombay, is repealed by s. 2 (*1*) and Schedule A to the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Bom. Code.

Investigation into non-cognizable cases.

(*2*) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(*3*) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investigation into cognizable cases.

156. (*1*) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(*2*) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(*3*) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

Procedure where cognizable offence suspected.

157. (*1*) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot, to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender:

Provided as follows:—

Where local investigation dispensed with.

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

Where police-officer in charge sees no sufficient ground for investigation.

(*b*) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section.

Reports under section 157 how submitted.

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Examination of witnesses by police.

161. (*1*) Any police-officer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(*2*) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Statements to police not to be signed or admitted in evidence.

162. (*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence: Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing, and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof: and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872.[1]

I of 1872.

(*2*) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (*1*), of the Indian Evidence Act, 1872.

[1] General Acts, Vol. II.

No inducement to be offered.

163. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872[1], section 24. I of 1872.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

Power to record statements and confessions.

164. (1) Every Magistrate not being a police-officer may record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect :—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

Search by police-officer.

165. (1) Whenever an officer in charge of a police-station, or a police-officer making an investigation, considers that the production of any document or thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is not known to be

[1] General Acts, Vol. I .

in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

(*2*) Such officer shall, if practicable, conduct the search in person.

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or thing for which search is to be made, and the place to be searched ; and such subordinate officer may thereupon search for such thing in such place.

(*4*) The provisions of this Code as to search-warrants[1] shall, so far as may be, apply to a search made under this section.

When officer in charge of police-station may require another to issue search-warrant.

166. (*1*) An officer in charge of a police-station may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever it appears that any investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused (if any) to such Magistrate.

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(*4*) If such order is given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with

[1] *See* ss 96 to 99, *supra*.

his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Release of accused when evidence deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond,[1] with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security[1] from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(*2*) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond [1] to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(*3*) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(*4*) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day

[1] *See* Sch. V, Forms XXV and XXVI, respectively.

on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restrain.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

172. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872,[1] section 161 or section 145, as the case may be, shall apply.

I of 1872.

Report of police-officer.

173. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police-report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with

[1] General Acts, Vol. II.

the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

(*2*) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

Police to inquire and report on suicide, etc.

[1]**174.** (*1*) The officer in charge of a police-station or some other police-officer specially empowered [2] by the Local Government in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

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[1] For form in which ss. 174 to 176 should be read in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court at Madras, *see* s. 4 (*2*) of the Madras Coroners Act, 1889 (V of 1889), as amended by the Repealing and Amending Act, 1903 (I of 1903).

[2] For notifications empowering various police-officers under this section in—
(*1*) Bengal, *see* Ben. R. and O.;
(*2*) Madras, *see* Mad. R. and O.;
(*3*) United Provinces, *see* United Provinces Gazette, 1904, Pt. I. p. 707.

(*3*) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man[1] appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate especially empowered in this behalf by the Local Government or the District Magistrate.

Power to summon persons.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(*2*) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of sub-section (*1*), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

[1] For medical men appointed in Ajmer-Merwara, *see* Aj. R. and O.

Power to disinter corpses.

(*2*) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.[1]

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct[2] that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act 1861,[3] or under this Code, section 526. 24 & 25 Vict., c. 104.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either

[1] A similar power is entrusted to the Coroners of Calcutta and Bombay. *See* the Coroners Act, 1871 (IV of 1871), s. 11, Ben. Code, Bom. Code.

[2] For direction that all cases in which railway officials are committed for trial in the districts of Sylhet and Cachar may be tried in the sessions division of Cachar, *see* Eastern Bengal and Assam Gazette, 1907, notification No. 5590 J., dated 30th December.

[3] Coll Stat., Vol. I.

Court Y or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d*) A is wounded in the Native State of Baroda, and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Stealing.

(*3*) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Kidnapping and abduction.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped

or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences against Railway, Telegraph, Post Office and Arms Acts.

184. All offences against the provisions of any law for the time being in force relating to Railways,[1] Telegraphs,[2] the Post-office[3] or Arms and Ammunition[4] may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not :

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

185. (*1*) Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

* * * *[5]

Power to issue summons or warrant for offence committed beyond local jurisdiction.

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate, or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot,

[1] *See* the Indian Railways Act, 1890 (IX of 1890), General Acts, Vol. IV.
[2] *See* the Indian Telegraphs Act, 1885 (XIII of 1885), General Acts, Vol. III.
[3] *See* the Indian Post Office Act, 1898 (VI of 1898), *infra*.
[4] *See* the Indian Arms Act, 1878 (XI of 1878), General Acts, Vol. II.
[5] Sub-sec. (*2*) of this section was repealed by the Lower Burma Courts Act, 1900 (VI of 1900), *see* s. 48 and the second schedule.

under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Magistrate's procedure on arrest.

(*2*) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by subordinate Magistrate.

187. (*1*) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(*2*) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of British subjects for offences committed out of British India.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Political Agents to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India; and, where

there is no Political Agent, the sanction of the Local Government shall be required:

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879[1], in respect of the same offence in any territory beyond the limits of British India. XXI of 1879.

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for Initiation of Proceedings.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Mgistrate or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a police-report of such facts;

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The Local Government, or the District Magistrate subject to the general or special orders[2] of the Local Government, may empower any [3]Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

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[1] Now repealed by the Indian Extradition Act, 1903 (XV of 1903), *infra*.

[2] For notification in Ajmer-Merwara, *see* Aj. R. and O.

[3] For notification empowering a Subdivisional Magistrate under this section in Eastern Bengal and Assam, in cases arising on railways as defined in s. 3 (*4*) of Act IX of 1890 (General Acts, Vol. IV), *see* Eastern Bengal and Assam Gazette, 1907, Pt. I, p. 6035.

Transfer or commitment on application of accused.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

Transfer of cases by Magistrates.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

Cognizance of offences, by Courts of Session.

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session[1] shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local Government by general or special order may direct them to try, or, in the case of Assistant Sessions Judges, as the Sessions Judge of the division, by general or special order, may make over to them for trial.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

24 & 25 Vict., c. 104.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the Indian High Courts Act, 1861,[2] or any other provision of this Code.

Informations by Advocate General.

(*2*) (*a*) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of the Governor General in Council or the Local Government, exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her

[1] As to procedure of Courts of Session in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. II (3) (*d*), Bur. Code; and (2) British Baluchistan, *see* British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code. This procedure, however, does not affect the Code in its application to European British subjects in either province, *see* the Regulations referred to Schedules, arts. XVII and 21, respectively.

[2] Coll. Stat., Vol. I.

Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

195. (*1*) No Court shall take cognizance—

Prosecution for contempts of lawful authority of public servants.

(*a*) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code,[1] except with the previous sanction, or on the complaint, of the public servant concerned or some public servant to whom he is subordinate; XLV of 1860.

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate,

Prosecution for certain offences relating to documents given in evidence.

(*c*) of any offence described in section 463 or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*) the term "Court" means a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877.[2] III of 1877.

(*3*) The provisions of sub-section (*1*), with reference to the offences named therein, apply also to the abetment of such offences, and attempts to commit them.

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[1] General Acts, Vol. I.

[2] *See* now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

(4) The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed. Nature of sanction necessary.

(5) When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

(6) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no sanction shall remain in force for more than six months from the date on which it was given; provided that the High Court may, for good cause shown, extend the time.

(7) For the purposes of this section every Court shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie, that is to say:—

(*a*) where such appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(*b*) where such appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case in connection with which the offence is alleged to have been committed;

(*c*) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first-mentioned Court is situate.

196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code[1] (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf. Prosecution for offences against the State. XLV of 1860.

197. (1) When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Prosecution of Judges and public servants.

[1] General Acts, Vol. I.

Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Power of Government as to prosecution.

(*2*) Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution for breach of contract, defamation and offences against marriage.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code[1] or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence. XLV of 1860.

Prosecution for adultery or enticing a married woman.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code,[1] except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed. XLV of 1860.

CHAPTER XVI.

Of Complaints to Magistrates.

Examination of complainant.

200. Subject to the provisions of section 476, a Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate :

Provided as follows :

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing ; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing ;

[1] General Acts, Vol. I.

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement of issue of process.

202. (*1*) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf, or any Magistrate of the first or second class, is not satisfied as to the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

(*2*) If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process.

204. (*1*) If, in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in

which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

Of Inquiry into Cases triable by the Court of Session or High Court.

Power to commit for trial.

206. (*1*) Subject to the provision of section 443, any Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(*2*) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court

Taking of evidence produced.

208. (*1*) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(*2*) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(*3*) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

(*2*) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. (*1*) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

Further list.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is

committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Order of commitment

213. (*1*) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

Person charged outside presidency-towns jointly with European British subject.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject, who is about to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

Quashing commitments under section 213 or 214.

215. A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed:

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order[1] to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the enquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. (*1*) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of

[1] *See* Sch. V, Form XXVII, *infra*.

the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

Custody of accused pending trial.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, [1] commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.[2]

Charge to state offence.

221. (*1*) Every charge under this Code shall state the offence with which the accused is charged.

Specific name of offence sufficient description.

(*2*) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

(*3*) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(*4*) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charge.

(*5*) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

Language of charge.

(*6*) In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

Previous conviction when to be set out.

(*7*) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award,[3] the fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it XLV of 1860.

[1] *See* Chapter XXXIX, *infra*.
[2] *See* Sch. V, Form XXVIII, *infra*.
[3] *See* the Indian Penal Code (Act XLV of 1860), s. 75, General Acts, Vol. I; *see* the Whipping Act, 1864 (VI of 1864), ss. 3 and 4, *ibid*. *See* also *infra*, ss. 310, 348 and 511.

did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception apply to it.

XLV of 1860. (*b*) A is charged, under section 326 of the Indian Penal Code[1], with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code[1]; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d*) A is charged, under section 184 of the Indian Penal Code[1], with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

222. (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(*2*) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234:

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

[1] General Acts, Vol. I.

Words in charge taken in sense of law under which offence is punishable.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

(*a*) A is charged, under section 242 of the Indian Penal Code[1], with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material. XLV of 1860.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled and that the error was material.

Procedure on commitment without charge or with imperfect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations.

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 467 of the Indian Penal Code[1]. A charge of fabricating false evidence under section 193 may be added. XLV of 1860.

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code[1] cannot be added.

Court may alter charge.

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

[1] General Acts, Vol. I.

(2) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed, or trial suspended.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

Effect of material error.

232. (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

XLV of 1860. A is convicted of an offence, under section 196 of the Indian Penal Code[1], upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

[1] General Acts, Vol. I.

Joinder of charges.

Separate charges for distinct offences.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three offences of same kind within year may be charged together.

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code[1] or of any special or local law. XLV of 1860.

Trial for more than one offence.

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence falling within two definitions.

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(*4*) Nothing contained in this section shall affect the Indian Penal Code[1], section 71.

Illustrations

to sub-section (1)—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code[1]. XLV of 1860.

(*b*) A commits house-breaking by day with intent to commit adultery, and commits in the house so entered adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code[1].

(*c*) A entices B. the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code[1].

[1] General Acts, Vol. I.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code[1].

XLV of 1860.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code[1].

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code[1].

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code[1].

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (2)—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code[1].

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code[1].

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code[1].

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code[1]. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to sub-section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code[1].

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

[1] General Acts, Vol. I.

When a person is charged with one offence he can be convicted of another.

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(*2*) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

When offence proved included in offence charged.

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(*3*) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a*) A is charged, under section 407 of the Indian Penal Code[1], with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406. XLV of 1860.

(*b*) A is charged, under section 325 of the Indian Penal Code,[1] with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

239. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this Chapter shall apply to all such charges.

[1] General Acts, Vol. I.

Illustrations.

(*a*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges on conviction on one of several charges.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

Of the Trial of Summons-cases by Magistrates.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.[1]

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Procedure when no such admission is made.

244. (*1*) If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

[1] Except in the case of trials of European British subjects by District Magistrates—*see* s. 451 (*4*), *infra*.

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence.

(*2*) If he finds the accused guilty, he shall pass sentence upon him according to law.[1]

Finding not limited by complaint or summons.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Non-appearance of complainant.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day :

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

Withdrawal of complaint.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Power to stop proceeding when no complainant.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

[1] *See* Sch. V, Form *XXIX*, *infra*.

Frivolous Accusations in Summons and Warrant Cases.

Frivolous or vexatious accusations.

250. (*1*) If, in any case instituted by complaint as defined in this Code, or upon information given to a police-officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit:

Provided that, before making any such direction, the Magistrate shall—

(*a*) record and consider any objection which the complainant or informant may urge against the making of the direction, and

(*b*) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(*2*) Compensation of which a Magistrate has ordered payment under sub-section (*1*) shall be recoverable as if it were a fine:

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(*3*) A complainant or informant who has been ordered under sub-section (*1*) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(*4*) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*3*), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(*5*) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-cases.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

252. (*1*) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

(*2*) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon[1] to give evidence before himself such of them as he thinks necessary.

Discharge of accused.

253. (*1*) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Charge to be framed when offence appears proved.

254.[2] If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Plea.

255. (*1*) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(*2*) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Defence.

256. (*1*) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be re-called and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they

[1] *See* Sch. V, Form XXXI, *infra*.
[2] *See* ss. 252 and 208, *supra*.

also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instance of accused.

257. (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquittal.

258. (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

(*2*) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law[1].

Absence of complainant.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded,[2] the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

Of Summary Trials.

Power to try summarily.

260.[3] (*1*) Notwithstanding anything contained in this Code,—

(*a*) the District Magistrate,

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[1] *See* Sch. V, Form XXIX, *infra*.

[2] *See* s. 345, *infra*.

[3] As to powers of Magistrates in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. 1, Bur. Code; (2) in British Baluchistan, *see* British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 5, Bal. Code. As to summary trial of forest offences, *see* the Indian Forest Act, 1878 (VII of 1878), s. 65, General Acts, Vol. II.

(*b*) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Local Government,

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ;[1] XLV of 1860.

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;

(*f*) receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees ;

(*g*) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448, and offences under sections 451, [2][453, 454], 456 and 457 of the same Code ;

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 :[3] I of 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

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[1] General Acts, Vol. I.

[2] These figures were inserted by the Repealing and Amending Act 1903 (I of 1903)—*see* Part II of the Second Schedule, *infra*.

[3] General Acts, Vol. II.

(*2*) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

Power to invest Bench of Magistrates invested with less power.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

XLV of 1860.

(*a*) offences against the Indian Penal Code,[1] sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447 ;

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine, or with imprisonment for a term not exceeding one month ;

(*c*) abetment of any of the foregoing offences ;

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure for summons and warrant-cases applicable.

262. (*1*) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(*2*) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

Record in cases where there is no appeal.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars :—

(*a*) the serial number ;

(*b*) the date of the commission of the offence ;

(*c*) the date of the report or complaint ;

(*d*) the name of the complainant (if any) ;

(*e*) the name, parentage and residence of the accused ;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*) of section 260 the value of the property in respect of which the offence has been committed ;

[1] General Acts, Vol. I.

(*g*) the plea of the accused and his examination (if any) ;

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*i*) the sentence or other final order ; and

(*j*) the date on which the proceedings terminated.

Record in appealable cases.

264. (*1*) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(*2*) Such judgment shall be the only record in cases coming within this section.

Language of record and judgment.

265. (*1*) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Bench may be authorized to employ clerk.

(*2*) The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(*3*) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(*4*) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION[1].

A.—Preliminary.

"High Court" defined.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established or to be established under the Indian High Courts Act, 1861[2], 24 & 25 Vict., c. 104.

[1] As to Courts of Session in (1) Upper Burma, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. II, Bur. Code ; (2) in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 3, Bal. Code.

[2] Coll. Stat., Vol. I.

and includes the Chief Court of the Punjab, the [1][Chief Court of Lower Burma] and such other Courts[2] as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this Chapter.

Trials before High Court to be by jury.

267. All trials under this Chapter before a High Court shall be by jury ;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861[3], the trial may, if the High Court so directs, be by jury.

24 and 25 Vict., c. 104.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

Local Government may order trials before Court of Session to be by jury.

269. (*1*) The Local Government [4] may, with the previous sanction of the Governor General in Council, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order.

(*2*) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

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[1] These words were substituted for the words " Court of the Recorder of Rangoon," by s. 47 of the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 47 and the First Schedule, Bur. Code.

[2] See last footnote under s. 4 (*j*), *supra*.

[3] Coll. Stat., Vol. I.

[4] For notification issued by the (1) Government of Burma under this section, for the Tenasserim Division, *see* Burma Gazette, 1900, Pt. I, p. 321; (2) Chief Commissioner of Assam for the Assam Valley Sessions Court, *see* Assam Gazette, 1903, Pt. II, p. 170 ; (3) Government of Bengal, *see* Ben. R. and O.

B.—Commencement of Proceedings.

Commencement of trial.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

(*2*) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in succession.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

Number of jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than three or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.[1]

Jury for trial of persons not Europeans or Americans before Court of Sessions.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

Jurors to be chosen by lot.

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule[2] direct:

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[1] For rules in Bengal for the trial of Europeans and Americans, see Ben. R. and O.

[2] For rules made under this section in conjunction with s. 313 by the High Court of the North-Western Provinces, *see* United Provinces and Oudh Gazette, 1902, Pt. II, p. 539; as to Madras and Calcutta, *see* note to s. 313, *infra*.

Provided that—

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed; Existing practice maintained;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present; persons not summoned when eligible;

thirdly, in the presidency-towns— trials before special jurors.

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed; and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

277. (*1*) As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror. Names of jurors to be called.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated: Objection to jurors.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged. Objection without grounds stated.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:— Grounds of objection.

(*a*) some presumed or actual partiality in the juror;

(*b*) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years;

(*c*) his having by habit or religious vows relinquished all care of worldly affairs;

(*d*) his holding any office in or under the Court;

(*e*) his executing any duties of police or being entrusted with police-duties;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury:

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873[1]. X of 1873.

Procedure when juror ceases to attend.

282. (*1*) If, in the course of a trial by jury at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

(*2*) In each of such cases the trial shall commence anew.

Discharge of jury in case of sickness of prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

[1] General Acts, Vol. II.

D.—Choosing Assessors.

Assessors how chosen.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

Procedure when assessor is unable to attend.

285. (*1*) If in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

(*2*) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

Opening case for prosecution.

286. (*1*) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code[1] or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

XLV of 1860.

(*2*) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.[2]

Evidence given at preliminary inquiry admissible.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

Procedure after examination of witnesses for prosecution.

289. (*1*) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(*2*) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

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[1] General Acts, Vol. I.

[2] *See* the Indian Evidence Act, 1872 (I of 1872), s. 80, General Acts, Vol. II.

(*3*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*4*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Prosecutor's right of reply.

292. If the accused, or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

View by jury or assessors.

293. (*1*) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(*2*) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessor may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assessors to attend at adjourned sitting.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of Judge.

298. (*1*) In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(*2*) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

299. It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be given on each charge. Judge may question jury.

303. (*1*) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

(*2*) Such questions and the answers to them shall be recorded.

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court when to prevail.

305. (*1*) When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(*2*) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(*3*) If the Judge disagrees with the majority, he shall at once discharge the jury.

(*4*) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (*1*) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(*2*) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. (*1*) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

(*2*) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but be may either remand the accused to custody or admit him to bail.

(*3*) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge

framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

Delivery of opinions of assessors.

309. (*1*) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion.

Judgment.

(*2*) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

(*3*) If the accused is convicted, the Judge shall pass sentence on him according to law.

I.—Procedure in Case of Previous Conviction.

Procedure in case of previous conviction.

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows :—

(*a*) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence :

(*b*) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge :

(*c*) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly ; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury, or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous

conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

When evidence of previous conviction may be given.

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.[1]

I of 1872.

J.—List of Jurors for High Court, and summoning Jurors for that Court.

Number of special jurors.

312. The names of not more than four hundred persons shall at any one time be entered in the special jurors' list.

Lists of common and special jurors.

313. (*1*) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules[2] as the High Court from time to time prescribes, prepare—

(*a*) a list of all persons liable to serve as common jurors; and

(*b*) a list of persons liable to serve as special jurors only.

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(*4*) The Governor General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government [3], may exempt any salaried officer of Government from serving as a juror.

Discretion of officer preparing lists.

(*5*) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

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[1] General Acts, Vol. II.

[2] For rules made by the High Court, North-Western Provinces, under this section, in conjunction with s. 276, *see* United Provinces and Oudh Gazette, 1902, Pt. II, p. 539; for rules by the High Court, Madras, under this section, *see* Fort St. George Gazette, 1906, Pt. II, pp. 1264-1266; 1401; *ibid*, 1907, Pt. II, p. 298; for rules by the High Court, Calcutta, *see* Gazette of India, 1906, Pt. II, p. 750.

[3] For notification exempting certain officers of Government from service as jurors or assessors, *see* Burma Gazette, 1902, Pt. I, p. 637; Fort St. George Gazette, 1890, Pt. II, p. 507.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

Number of jurors to be summoned in presidency-towns.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the presidency-towns.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(*2*) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his commanding officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

Failure of jurors to attend.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such

fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

Liability to serve as jurors or assessors.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors or assessors, namely:—

(*a*) officers in civil employ superior in rank to a District Magistrate;

(*b*) salaried Judges;

(*c*) Commissioners and Collectors of Revenue or Customs;

(*d*) police-officers and persons engaged in the Preventive Service in the Customs Department;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(*f*) persons actually officiating as priests or ministers of their respective religions;

(*g*) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(*h*) surgeons and others who openly and constantly practise the medical profession;

XVIII of 1879.

(*i*) legal practitioners (as defined by the Legal Practitioners Act, 1879),[1] in actual practice;

(*j*) persons employed in the Post-office and Telegraph Departments;

(*k*) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;[2]

[1] General Acts, Vol. III.
[2] *See* now the Code of Civil Procedure, 1908 (V of 1908), General Acts, Vol. VI.

(*l*) other persons [1] exempted by the Local Government from liability to serve as jurors or assessors.

List of jurors and assessors.

321. (*1*) The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive.

(*2*) The list shall contain the name, place of abode and quality or business of every such person; and, if the person is an European or an American, the list shall mention the race to which he belongs.

Publication of list.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

Objections to list.

323. To every such copy or extract shall be sub-joined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

Revision of list.

324. (*1*) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, or as an assessor, or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(*2*) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

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[1] For exemptions :—
(1) Ajmer-Merwara, *see* Aj. R. and O.;
(2) Assam, *see* Assam Gazette, 1898, Pt. II, p. 1152;
(3) Bengal, *see* Ben. R. and O.;
(4) Burma, *see* Burma Gazette, 1905, Pt. I, pp. 174, 738; *ibid*, 1906, Pt. I, p. 12; *ibid*, 1907, Pt. I, p. 490;
(5) Madras, *see* Mad. R. and O.

(*3*) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(*4*) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(*5*) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(*6*) The list so prepared and revised shall be again revised once in every year. Annual revision of list.

(*7*) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Preparation of list of special jurors.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury.

District Magistrate to summon jurors and assessors.

326. (*1*) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list[1] or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

(*2*) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

Power to summon another set of jurors or assessors.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

[1] *See* Sch. V, Forms XXXII and XXXIII, respectively, *infra*.

Form and contents of summons.

328. Every summons[1] to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

When Government or Railway servant may be excused.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

Court may excuse attendance of juror or assessor.

330. (*1*) The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

Court may relieve special jurors from liability to serve again as jurors for twelve months.

(*2*) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

List of jurors and assessors attending.

331. (*1*) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(*2*) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(*3*) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. (*1*) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(*2*) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(*3*) For good cause shown, the Court may remit or reduce any fine so imposed.

(*4*) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

[1] *See* Sch. V, Forms XXXII and XXXIII, respectively, *infra*.

(Part VI.—Proceedings in Prosecutions. Chapter XXIII.—Of Trials before High Courts and Courts of Session. Chapter XXIV.—General Provisions as to Inquiries and Trials.)

L.—Special Provisions for High Courts.

Power of Advocate General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(*2*) But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

Place of trial of European British subjects.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

Tender of pardon to accomplice.

337. [1](*1*) In the case of any offence [2] triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magistrate,

[1] As to tender of pardon to an accomplice in Upper Burma and trial of the case by the Magistrate himself, except in cases affecting European British subjects, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, articles VIII and XVII, Bur. Code; in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, articles 10 and 21, Bal. Code.

[2] In places where the Punjab Frontier Crimes Regulation, 1901 (III of 1901), is in force, the words "triable exclusively by the Court of Session or High Court" are to be omitted—*see* s. 7 of that Regulation, Punj. Code.

any Magistrate of the first class inquiring into the offence or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

(*2*) Every person accepting a tender under this section shall be examined as a witness in the case.

(*3*) Such person, if not on bail, shall be detained in custody until the termination of the trial[1] by the Court of Session or High Court, as the case may be.

(*4*) Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

[1] In places where the Punjab Frontier Crimes Regulation, 1901 (III of 1901), is in force, the words "by the Court of Session or High Court, as the case may be," are to be omitted—*see* s. 7 of the Regulation, Punj. Code.

Right of accused to be defended.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

Procedure where accused does not understand proceedings.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Power to examine the accused.

342. (*1*) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(*2*) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

(*3*) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(*4*) No oath shall be administered to the accused.

No influence to be used to induce disclosures.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings.

[1]344. (*1*) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(*2*) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

[1] *Cf.* the Indictable Offences Act, 1848 (11 & 12 Vict., c. 42), s. 21.

Reasonable cause for remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

[1][3][4][5]. (*1*) The offences punishable under the sections of the Indian Penal Code[2] described in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :— XLV of 1860.

Offence.	Sections of Indian Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force . . .	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour . . .	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House-trespass	448	
Criminal breach of contract of service .	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.

[1] For the section applicable instead of this section to hill tribes to which the Kachin Hill Tribes Regulation, 1895 (I of 1895), and the Chin Hills Regulation, 1896 (V of 1896), have been applied, *see* Notifications Nos. 14 and 15, respectively, dated 30th June 1898, Burma Gazette, 1898, Pt. I, p. 322. *See* also Bur. Code.

[2] General Acts, Vol. I.

(2) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337 or section 338 of the Indian Penal Code,[1] may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

XLV of 1860.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(7) No offence shall be compounded except as provided by this section.

Procedure of Provincial Magistrate in cases which he cannot dispose of.

346. (1) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

(2) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

[1] General Acts, Vol. I.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code[1] with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted: XLV of 1860.

Provided that, if the District Magistrate has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

Procedure when Magistrate cannot pass sentence sufficiently severe.

[2]**349.** (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

(*2*) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and recommence the inquiry or trial:

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[1] General Acts, Vol. I.

[2] In the Santhal Parganas, any person convicted or sentenced under this section by any Magistrate other than the Deputy Commissioner, may appeal to the Deputy Commissioner, and, if convicted or sentenced by the Deputy Commissioner, may appeal to the Commissioner as High Court—*see* s. 4 of the Santhal Parganas Justice Regulation, 1893 (V of 1893), Ben. Code.

(Part VI.—Proceedings in Prosecutions. Chapter XXIV.—General Provisions as to Inquiries and Trials. Chapter XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials.)

Provided as follows :—

(*a*) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard ;

(*b*) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them :

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence

presence of accused.

of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency-towns.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

[1]**355.** (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

Record in other cases outside presidency-towns.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge.

Evidence given in English.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

Memorandum when evidence not

(*3*) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness

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[1] Evidence recorded by Forest-officers under the Burma Forest Act, 1902 (Bur. Act IV of 1902), in accordance with ss. 355, 356 or 357 of the Code, is admissible in subsequent trials before Magistrates—*see* s. 53 of that Act; under the Madras Forest Act, 1882 (Mad. Act V of 1882), s. 59, Mad. Code; under the British Baluchistan Forest Regulation, 1890 (V of 1890) s. 35, Bal. Code. Under the Forest Act, 1878 (VII of 1878), General Acts, Vol. II, such evidence, recorded under cl. (*d*) of s. 71 of that Act, is admissible in any subsequent trial before a Magistrate, provided it is taken in the presence of the accused person.

proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record. taken down by the Magistrate or Judge himself.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

[1]**357.** (*1*) The Local Government may direct[2] that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court. Language of record of evidence.

(*2*) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may[3] direct the Sessions Judge or Magistrate, to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section. Option to Magistrate in cases under section 355.

359. (*1*) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. Mode of recording evidence under section 356 or section 357.

(*2*) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

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[1] *See* note to s. 355, *supra*.

[2] For instance of such notification, *see* Central Provinces Gazette, 1902, Pt. III, p. 218; Coorg Gazette, 1905, Pt. I, p. 91; *ibid*, 1907, Pt. I, p. 49.

[3] For notification by the Chief Commissioner of Ajmer-Merwara that certain Honorary Magistrates shall take down evidence in English in certain class of cases, *see* Gazette of India, 1907, Pt, I, p. 1577.

Procedure in regard to such evidence when completed.

360. (*1*) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(*2*) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(*3*) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his pleader.

361. (*1*) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(*2*) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(*3*) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Record of evidence in Presidency Magistrates' Courts.

362. (*1*) In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(*2*) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(*3*) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

Remarks respecting demeanour of witness.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination of accused how recorded.

364. (*1*) Wherever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab [1][or the Chief Court of Lower Burma], the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English: and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(*2*) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge or such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

(*3*) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(*4*) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

Record of evidence in High Court.

365. Every High Court established by Royal Charter, * * [2] the Chief Court of the Punjab [2][and the Chief Court of Lower Burma], may, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

[1] These words were inserted by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 47 and First Schedule.

[2] The word "and" was omitted, and the words "and the Chief Court of Lower Burma" inserted, by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 47 and the First Schedule.

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may e delivered in the presence of his pleader.

(*3*) No judgment delivered by any Criminial Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code [1] or other law under which the accused is convicted, and the punishment to which he is sentenced. XLV of 1860.

Judgment in alternative.

(*3*) When the conviction is under the Indian Penal Code,[1] and it is doubtful under which of two sections, or under which of two parts of the same XLV of 1860.

[1] General Acts, Vol. I.

section, of that Code the offence falls, the Court shall distinctly express the same and pass judgment in the alternative.

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(*5*) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed :

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record theheads of the charge to the jury.

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of transportation.

(*2*) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to alter judgment.

369. No Court other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484 or to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;

(*e*) the offence complained of or proved ;

(*f*) the plea of the accused and his examination (if any) ;

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Copy of judgment, etc., to be given to accused on application.

371. (*1*) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

Case of person sentenced to death.

(*3*) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

Judgment when to be translated.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

Court of Session to send copy of finding and sentence to District Magistrate.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

Sentence of death to be submitted by Court of Session.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court[1] and the sentence shall not be executed unless it is confirmed by the High Court.

Power to direct further inquiry to be made or additional evidence to be taken.

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such enquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

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[1] *See* Sch. V, Form XXXIV, *infra*.

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation of new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in cases submitted to High Court for confirmation.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such enquiry or evidence to be made or taken.

CHAPTER XXVIII.

Of Execution.

Execution of order passed under section 376.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant[1] or taking such other steps as may be necessary.

[1] *See* Sch. V, Forms XXXV and XXXVI, *infra*.

Postponement of capital sentence on pregnant woman.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute [1] the sentence to transportation for life.

Execution of sentences of transportation or imprisonment in other cases.

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

Direction of warrant for execution.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail, or other place in which the prisoner is, or is to be, confined.

Warrant with whom to be lodged.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant for levy of fine.

[2] **386.** Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant [3] for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Effect of such warrant.

[2] **387.** Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Suspension of execution of sentence of imprisonment.

[2] **388.** (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

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[1] *See* Sch. V, Form XXXVI, *infra*.

[2] The provisions of ss. 386 to 389 have been declared to apply to fines imposed (1) under the Andaman and Nicobar Islands Regulation, 1876 (III of 1876)—*see* s. 35 as amended by the Andaman and Nicobar Islands Regulation, 1884 (I of 1884), s. 7; (2) under the Arakan Hill District Laws Regulation 1874 (IX of 1874)—*see* s. 18 of the Regulation, Bur. Code, and s. 3 (*1*), *supra*; and (3) under the Police Act 1861 (V of 1861), s. 37, General Acts, Vol. I. The provisions of sections 386 and 387 have been extended to the Commissioner of Police, Calcutta, *see* Calcutta Gazette, 1904, Pt. I, p. 464, under s. 1 (*2*) of the Code.

[3] *See* Sch. V, Form XXXVI, *infra*.

(*2*) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (*1*), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

Who may issue warrant.

[1]**389.** Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of sentence of whipping only.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

Execution of sentence of whipping, in addition to imprisonment.

391. (*1*) When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court; but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(*2*) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(*3*) No accused person shall be sentenced to whipping in addition to imprisonment, when the term of imprisonment to which he is sentenced is less than three months.

Mode of inflicting punishment.

392. (*1*) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instrument, as the Local Government directs. [2]

Limit of number of stripes.

(*2*) In no case shall such punishment exceed thirty stripes [3] [and in the case of a person under sixteen years of age, it shall not exceed fifteen stripes.]

[1] *See* footnote to s. 386, *supra*.

[2] For manner in which whipping shall be inflicted in —
(1) Assam, *see* Assam Gazette, 1899, Pt. II, p. 384;
(2) Bombay, *see* Bombay Government Gazette, 1898, notification dated 16th September, Bom. R. and O.;
(3) Burma, *see* Burma Gazette, 1898, Pt. I, p. 307; Bur. R. M.;
(4) Central Provinces, *see* Central Provinces Gazette, 1908, Pt. I, p. 151;
(5) Coorg, *see* Coorg Gazette, 1899, Pt. I, p. 12;
(6) Madras, *see* Mad. R. and O. and Fort St. George Gazette, 1898, Pt. I, p. 1248;
(7) the Punjab, *see* Punjab Gazette, Pt. I, p. 314.

[3] Added by the Whipping Act, 1909 (IV of 1909), General Acts, Vol. VI, Appendix.

Not to be executed by instalments. Exemptions.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable with whipping, namely :—

(*a*) females ;

(*b*) males sentenced to death or to transportation or to penal servitude, or to imprisonment for more than five years ;

(*c*) males whom the Court considers to be more than forty-five years of age.

Whipping not to be inflicted if offender not in fit state of health.

394. (*1*) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Stay of execution.

(*2*) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if punishment cannot be inflicted under section 394.

395. (*1*) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it ; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(*2*) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

Execution of sentences on escaped convicts.

396. (*1*) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say :—

(*2*) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(*3*) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take

effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

Explanation.—For the purposes of this section—

(*a*) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment ;

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement ; and

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration[1] of the imprisonment, penal servitude or transportation to which he has been previously sentenced :

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

Saving as to sections 396 and 397.

398. (*1*) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(*2*) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

Confinement of youthful offenders in reformatories.

399. (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct

[1] In the case of a youthful offender, however, such sentences run concurrently, *see* s. 32 of the Reformatory Schools Act, 1897 (VIII of 1897), General Acts, Vol. IV.

that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

(*2*) All persons confined under this section shall be subject to the rules so prescribed.

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897,[1] is for the time being in force. VIII of 1897.

Return of warrant on execution of sentence.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

Of Suspensions, Remissions and Commutations of Sentences.

Power to suspend or remit sentences.

401. (*1*) When any person has been sentenced to punishment for an offence, the Governor General in Council or the Local Government may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(*2*) Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

(*3*) If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

[1] General Acts, Vol. IV ; *see* s. 3 of that Act.

(*4*) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(*5*) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

(*6*) The Governor General in Council and the Local Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

Power to commute punishment.

402. The Governor General in Council or the Local Government may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

Of previous Acquittals or Convictions.

Person once convicted or acquitted not to be tried for same offence.

403. (*1*) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(*2*) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (*1*).

(*3*) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(*4*) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged, with, and tried for, any other offence constituted by the same acts which he

may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897[1], or section 188 of this Code. X of 1897.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.[2]

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Appeal from order rejecting application for restoration of attached property.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

[1] General Acts, Vol. IV.

[2] For periods of limitation *see* the Indian Limitation Act, 1908 (IX of 1908), Sch. I, second division, General Acts, Vol. VI.

Appeal from order requiring security for good behaviour.

406. Any person ordered by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class.

407. (*1*) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Subdivisional Magistrate of the second class, may appeal to the District Magistrate.

Transfer of appeals to first class Magistrate.

(*2*) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

[1]**408.** Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session:

Provided as follows:—

(*a*) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session;

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court;

(*c*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code[2], the appeal shall lie to the High Court.

XLV of 1860.

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[1] As to appeals from sentences of District Magistrates in Upper Burma in cases other than those affecting European British subjects, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, arts. X and XVII, Bur. Code. As to similar appeals in British Baluchistan, *see* s 13 of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code.

As to appeals from decisions under the Frontier Crimes Regulation, 1901 (III of 1901), *see* Ch. III of that Regulation, P. and N. W. Code.

Appeals to Court of Session how heard.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

Appeal from sentence of Court of Session.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Appeal from sentence of Presidency Magistrate.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only or of fine not exceeding fifty rupees only, or of whipping only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal from certain summary convictions.

[1]**414.** Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

[1] As to restrictions in appeals in Upper Burma, except those affecting European British subjects, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, arts. XI and XVII, Bur. Code; in British Baluchistan, *see* s. 14 of the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Bal. Code.

Saving of sentences on European British subjects.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

Appeal on behalf of Government in case of acquittal.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal on what matters admissible.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

Powers of Appellate Court in disposing of appeal.

[1]**423.** (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (*1*) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (*2*) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (*3*), with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub-section (*3*), not so as to enhance the same;

(*c*) in an appeal from any other order, alter or reverse such order;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

(*2*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

Judgments of subordinate Appellate Courts

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

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[1] As to enhancement of punishment by Appellate Courts in Upper Burma, the Santhal Parganas and in British Baluchistan, *see* respectively the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. XIII, Bur. Code, the Santhal Parganas Justice Regulation, 1893 (V of 1893), s. 4 (vi), Ben. Code, and the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), s. 15, Bal. Code; in the North-West Frontier Province, *see* the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), ss. 10, 11, P. and N. W. Code.

Order by High Court on appeal to be certified to lower Court.

425. (*1*) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(*2*) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal. Release of appellant on bail.

426. (*1*) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(*2*) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(*3*) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

Arrest of accused in appeal from acquittal.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Appellate Court may take further evidence or direct it to be taken.

428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

(*4*) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

Proceedure where Judges of Court of Appeal are equally divided.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Reference by Presidency Magistrate to High Court.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

Disposal of case according to decision of High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

Direction as to costs.

(*2*) The High Court may direct by whom the costs of such reference shall be paid.

Power to reserve questions arising in original jurisdiction of High Court.

[1] **434.** (*1*) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

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[1] As to review in certain criminal cases by the Chief Court of Lower Burma, when no reference has been made under this section, *see* s. 12 of the Lower Burma Courts Act, 1900 (VI of 1900).

(*2*) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit. Procedure when question reserved.

435. (*1*) The High Court or any Sessions Judge or District Magistrate or any Sub-divisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding, before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court. Power to call for records of inferior Courts.

(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(*3*) Orders made under sections 143 and 144 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section.

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

436. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged: Power to order commitment.

Provided as follows:—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Power to order inquiry.

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any accused person who has been discharged.

Report to High Court.

438. (*1*) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(*2*) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by the Sessions Judge.

High Court's powers of revision.

439. (*1*) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(*2*) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(*3*) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(*4*) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(*5*) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (*2*).

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before over-ruling or setting aside the said decision or order.

High Court's order to be certified to lower Court or Magistrate.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.[1]

Magistrates who may inquire into and try charges against European British subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions Judge to be an European British subject.

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions

[1] As to withdrawal from vagrants of their privileges as European British subjects, *see* s. 30 of the European Vagrancy Act, 1874 (IX of 1874), and s. 3 (*1*), *supra*. For Act IX of 1874, *see* General Acts, Vol. II.

Assistant Sessions Judge to have held office for three years and to be specially empowered.

Judge, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government.

Cognizance of offence committed by European British subject

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

Sentences which may be passed by provincial Magistrates.

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.

When commitment is to be to Court of Session and when to High Court.

447. (*1*) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

(*2*) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

Trial of offences of which one is, and the others are not, punishable with death or transportation for life.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

Sentences which may be passed by Court of Session.

449. (*1*) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

Procedure when Sessions Judge finds his powers inadequate.

(*2*) If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved, cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

Jury or assessors before High Court or Court of Session.

450. (*1*) In trials of European British subjects before a High Court or Court of Session, if before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(*2*) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (*1*), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

Right of European British subject to claim jury before District Magistrate.

451. (*1*) In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450.

(*2*) If a claim is made under sub-section (*1*) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(*3*) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(*4*) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

(*5*) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(*6*) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(*7*) All Courts may construe any of the provisions referred to in sub-section (*5*) or sub-section (*6*), in so far as they are made applicable by those sub-sections, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(*8*) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

Transfer to another Court in certain cases.

(*9*) If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under this section, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

(*10*) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

Trial of European British subject and Native jointly accused.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

When Native may claim separate trial.

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately,

the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

Procedure on claim of person to be dealt with as European British subject.

453. (*1*) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(*2*) When any such person is committed by the Magistrate for trial before the Courtof Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(*3*) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

454. (*1*) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

(*2*) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

Trial under this Chapter of person not an European British subject.

455. Where a person who is not an European British subject is dealt with as such under this Chapter and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

Right of European

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his

British subject unlawfully detained to apply for order to be brought before High Court.

behalf may apply to the High Court[1] which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

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[1] Original and appellate criminal jurisdiction is exercised by the High Courts at Madras and Bombay and for the North-Western Provinces over European British subjects in outlying provinces and places in British India as follows :—

High Courts.	Places.
Madras	Coorg.
	The Upper Godavari District of the Central Provinces (now part of the Chanda District, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, page 150).
Bombay	The Nagpur, Narbada and Chhatisgarh Divisions of the Central Provinces.
	The Pargana of Manpur in Central India.
North-Western Provinces . .	Oudh.
	The Jabalpur Division of the Central Provinces.
	The line of railway from Allahabad to Jabalpur, and the lands and buildings appurtenant thereto, other than the station at Satna.
	The Cantonment of Morar (since ceded to the Gwalior State—see Notification No. 2557-I., dated the 29th July 1886, Gazette of India, 1886, Pt. I, p. 453).
	Ajmere and British Merwara.

[*See* Notification No. 1203, dated the 23rd September 1874, Gazette of India, 1874, Pt. I, p. 484.]

The High Court at Fort William exercises original and appellate jurisdiction and has all the functions of a High Court under the Code in all criminal proceedings against European British subjects and persons charged with European British subjects in the Andaman and Nicobar Islands —*see* Notification No. 77, dated 15th March 1878, Gazette of India, 1878, Pt. I, p. 132.

Original and appellate jurisdiction is also exercised by the High Courts at Fort William, Madras and Bombay and for the North-Western Provinces over European British subjects, being Christians, resident in certain Native States, territories and chiefships—*see* Notification No. 178-J., dated 23rd September 1874, Gazette of India, 1874, Pt. I, p. 485; No. 215-J., dated 18th December 1874, Gazette of India, 1874, Pt. I, p. 612; No. 119-J. and No. 120-J., dated 9th August 1875, Gazette of India, 1875, Pt. I, p. 404.

Procedure on such application.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

Territories throughout which High Court may issue such orders.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

Application of acts conferring jurisdiction on Magistrates or Courts of Session.

459. (*1*) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(*2*) Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace.

Jury for trial of Europeans or Americans.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans.

Jury when European or American charged jointly with one of another race.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American and in compliance with a claim made under section 460 is tried by a jury or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

Summoning and empanelling jurors under section 450, 451 or 460.

462. (*1*) When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450 or section 460, or before the Court of a District Magistrate or Sessions Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

(*2*) The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list unless such number of such other persons has been already summoned for trials by jury at that session.

(*3*) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained:

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

Conduct of criminal proceedings against European British subjects, etc.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

Procedure in case of accused being lunatic.

464. (*1*) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

(*2*) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

Procedure in case of person committed before Court of Session or High Court being lunatic.

465. (*1*) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

(*2*) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

Release of lunatic pending investigation or trial.

466. (*1*) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Custody of lunatic.

(*2*) If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, remanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

Resumption of inquiry or trial.

467. (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(*2*) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before Magistrate or Court.

468. (*1*) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(*2*) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment of acquittal on ground of lunacy.

[1]**470.** Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be kept in safe custody.

471. (*1*) Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

(*2*) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

(*3*) The Governor General in Council may, by general or special order direct that any person whom the Local Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

Power of Local Government to relieve Inspector General of certain functions.

(*4*) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.

Lunatic prisoners to be visited by Inspector General.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Procedure where lunatic prisoner is

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion,

[1] *Cf.* the Criminal Lunatics Act, 1800 (39 & 40 Geo. III, c. 94).

such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

reported capable of making his defence.

474. (*1*) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

475. (*1*) Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and, on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

(*2*) Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

(*3*) The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. (*1*) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195 and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate

Procedure in cases mentioned in section 195.

of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

(*2*) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorized under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

Power of Court of Session as to such offences committed before itself.

477. (*1*) Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit or admit to bail and try such person upon its own charge.

(*2*) Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice or any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure in certain cases of contempt.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code[1] is committed in the view or presence of any Civil, Criminal or Revenue Court, the XLV of 1860

[1] General Acts, Vol. I.

Court may cause the offender, whether he is a European British subject or not, to be detained in custody[1] and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(*2*) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

XLV of 1860. (*2*) If the offence is under section 228 of the Indian Penal Code,[2] the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

Procedure where Court considers that case should not be dealt with under section 480.

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

(*2*) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so directs, any Registrar or any III of 1877. Sub-Registrar appointed under the Indian Registration Act, 1877,[3] shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

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[1] *See* Sch. V, Form XXXVIII, *infra*.
[2] General Acts, Vol. I.
[3] *See* now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

Discharge of offender on submission or apology.

484. When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant[1] under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

Appeals from convictions in contempt-cases.

486. (*1*) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(*2*) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(*3*) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(*4*) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

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[1] *See* Sch. V, Form XXXIX, *infra*.

(Part VIII.—Special Proceedings. Chapter XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice. Chapter XXXVI.—Of the Maintenance of Wives and Children.)

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

487. (*1*) Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court * * * * [1], shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt[2] of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(*2*) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

Of the Maintenance of Wives and Children.

Order for maintenance of wives and children.

488. (*1*) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(*2*) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

Enforcement of order.

(*3*) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant[3] for levying the amount due in manner hereinbefore provided for levying fines, [4] and may sentence [5] such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may

[1] The words "and the Recorder of Rangoon," were repealed by the Lower Burma Courts Act, 1900 (VI of 1900)—*see* s. 48 and the Second Schedule.

[2] As to trials for contempt of authority of a Criminal Court or Magistrate in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 16, Bal. Code.

[3] *See* Sch. V, Form XLI, *infra*.

[4] *See* ss. 386 to 389, *supra*.

[5] *See* Sch. V, Form XL, *infra*.

consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

(*4*) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(*5*) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(*6*) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside for good cause shown on application made within three months from the date thereof.

(*7*) The accused may tender himself as a witness, and in such case shall be examined as such.

(*8*) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

(*9*) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit : Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded.

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid ; and such order may be enforced by any Magistrate in any place where the person against whom

it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

Power to issue directions of the nature of a *habeas corpus*.

491. (*1*) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(*2*) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(*3*) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818,[1] Madras Regulation II of 1819,[2] or Bombay Regulation XXV of 1827,[3] or the State Prisoners Act, 1850,[4] or the State Prisoners Act, 1858.

III of 1818.
XXXIV of 1850.
III of 1858.

[1] Ben. Code.
[2] Mad. Code.
[3] Bom. Code.
[4] General Acts, Vol. I.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

Power to appoint Public Prosecutors.

492. (*1*) The Governor General in Council or the [1]Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(*2*) In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Subdivisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

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[1]For notification by Chief Commissioner, Assam, appointing all Government Pleaders to be *ex officio* Public Prosecutors in the districts in which they may for the time being conduct cases on behalf of Government, *see* Assam Gazette, 1905, Pt. II, p. 104; for notification appointing Public Prosecutors in Bengal, *see* Ben. R. and O.; in Burma, *see* Burma Gazette, 1903, Pt. I. p, 573; *ibid*, 1907, Pt. I, p. 29; in Coorg, *see* Coorg Gazette, 1906, Pt. I, p. 11; in Madras, *see* Mad. R. and O.; in Punjab, *see* Punjab Gazette, 1900, Pt. I, p. 666.

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police[1] below a rank[2] to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council, but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.[3]

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond[4] without sureties for his appearance as hereinafter provided.

When bail may be taken in case of non-bailable offence.

497. (*1*) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

[1] As to conduct of prosecutions by police-officers in Upper Burma notwithstanding anything in s. 495. *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. XIV, Bur. Code; in British Baluchistan, *see* the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 17, Bal Code

[2] The rank of a sub-inspector in Ajmer-Merwara, *see* Aj. R. and O.; and in Burma, *see* Burma Gazette, 1907, Pt. I, p. 251; that of first-class head-constable in charge of a police-station in Madras, *see* Mad. R. and O.

[3] The provisions of this Chapter and of Chapter XLII apply, as far as may be, to bail given and bonds executed under s. 132 (*4*) of the Railways Act, 1890 (IX of 1890), General Acts, Vol. IV.

[4] *See* Sch. V, Form XLII, *infra*.

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(*3*) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

Power to direct admission to bail or reduction of bail.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties.

499. (*1*) Before any person is released on bail or released on his own bond, a bond[1] for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(*2*) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge from custody.

500. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release[1] to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(*2*) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

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[1] *See* Sch. V, Form XLIII, *infra*.

Discharge of sureties.

502. (*1*) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(*2*) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(*3*) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

Of Commissions for the Examination of Witnesses.

When attendance of witness may be dispensed with.

503. (*1*) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate, of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

Issue of commission, and procedure thereunder.

(*2*) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(*3*) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he, or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(*4*) Where the commission is issued to such officer as is mentioned in sub-section (*2*), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

Commission in case of witness being within presidency-town.

504. (*1*) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

(*2*) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.[1] 39 & 40 Vict., c. 46.

Parties may examine witnesses.

505. The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, shall examine the witness upon such interrogatories.

(*2*) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of provincial Subordinate Magistrate to apply for issue of commission.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Return of commission.

507. (*1*) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872,[2] may also be received in evidence at any subsequent stage of the case before another Court. I of 1872.

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[1] Coll. Stat., Vol II.
[2] General Acts, Vol. II.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission. Adjournment of inquiry or trial.

CHAPTER XLI.

Special Rules of Evidence.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness. Deposition of medical witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition. Power to summon medical witness.

510. Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code. Report of Chemical Examiner.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force— Previous conviction or acquittal how proved.

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such Record of evidence in absence of accused.

person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence when offender unknown.

(*2*) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an enquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

[1] **514.** (*1*) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid. [2]

(*2*) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant [3] for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

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[1] *See notes* to ss. 112 to 125, *supra*.

[2] This section has been declared to apply to the security required by s. 31A of the Rangoon Police Act, 1899 (IV of 1899), Bur. Code.

[3] *See* Sch. V, Forms XLIV to LIII, *infra*.

(*3*) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(*4*) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(*5*) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(*6*) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

Appeal from, and revision of, orders under section 514.

[1]**515.** All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Power to direct levy of amount due on certain recognizances.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

Of the Disposal of Property.

Order for disposal of property regarding which offence committed.

517. (*1*) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(*2*) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(*3*) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock or is subject to

[1] S. 515 has been declared to apply to the security required by s. 31A of the Rangoon Police Act, 1899 (Bur. Act IV of 1899), Bur. Code.

speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

[1] *Explanation.*—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Sub-divisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

[2] **519.** When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (*1*) On a conviction under the Indian Penal Code,[3] section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. XLV of 1860.

(*2*) The Court may, in like manner, on a conviction under the Indian Penal Code[1], section 272, section 273, section 274 or section 275 order the food,

[1] *Cf.* the Larceny Act (24 & 25 Vict., c. 96), s. 1.
[2] *Cf.* the Criminal Law Amendment Act, 1867 (30 & 31 Vict., c. 35), s. 9.
[3] General Acts, Vol. I.

drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

Power to restore possession of immoveable property.

522. (*1*) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

(*2*) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

Procedure by police upon seizure of property taken under section 51 or stolen.

523. (*1*) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

(*2*) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

Power to sell perishable property.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be

sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

High Court may transfer case or itself try it.

526. (*1*) Whenever it is made to appear to the High Court[1]:—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(*ii*) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(*iii*) that any particular criminal case or appeal be transferred to and tried before itself; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

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[1] As to the power of the Judicial Commissioner of the North-West Frontier Province to transfer any case to or to direct any accused person to be committed for trial to his Court, see the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), ss. 10, 12, P. and N. W. Code.

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(*5*) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

Notice to Public Prosecutor of application under this section.

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(*7*) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section.

(*8*) If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending, his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

Power of Governor General in Council to transfer criminal cases and appeals.

527. (*1*) The Governor General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court, to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

(*2*) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

District or Sub-divisional Magistrate may withdraw or refer cases.

528. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorize District Magistrate to withdraw classes of cases.

(*2*) The Local Government may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

(*3*) A Magistrate making an order under this section shall record in writing his reasons for making the same.

(*4*) The head of a village under Madras Regulation IV of 1821[1] is a Magistrate for the purposes of this section.

CHAPTER XLV.

Of Irregular Proceedings.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely :—

(*a*) to issue a search-warrant under section 98 ;

(*b*) to order, under section 155, the police to investigate an offence ;

(*c*) to hold an inquest under section 176 ;

(*d*) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*) ;

(*f*) to transfer a case under section 192 ;

(*g*) to tender a pardon under section 337 or section 338 ;

(*h*) to sell property under section 524 or section 525 ; or

(*i*) to withdraw a case and try it himself under section 528 ;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate Proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

(*a*) attaches and sells property under section 88 ;

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department ;

(*c*) demands security to keep the peace ;

(*d*) demands security for good behaviour ;

(*e*) discharges a person lawfully bound to be of good behaviour ;

(*f*) cancels a bond to keep the peace ;

(*g*) makes an order under section 133 as to a local nuisance ;

[1] Mad. Code.

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;

(*i*) issues an order under section 144;

(*j*) makes an order under Chapter XII;

(*k*) takes cognizance, under section 190, sub-section (*1*), clause (*c*), of an offence;

(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate;

(*m*) calls, under section 435, for proceedings;

(*n*) makes an order for maintenance;

(*o*) revises, under section 515, an order passed under section 514;

(*p*) tries an offender;

(*q*) tries an offender summarily; or

(*r*) decides an appeal;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(*2*) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of section 164 or 364.

533. (*1*) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained

in the Indian Evidence Act, 1872,[1] section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

Omission to ask question prescribed by section 454 (*2*).

534. An omission to ask any person whether he is an European British subject, in a case to which sub-section (*2*) of section 454 applies, shall not affect the validity of any proceeding.

Effect of omission to prepare charge.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(*2*) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Trial by jury of offence triable with assessors. Trial with assessors of offence triable by jury.

536. (*1*) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

(*2*) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

[2]**537.**[3] Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or an appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(*b*) of the want of or any irregularity in any sanction required by section 195, or any irregularity in proceedings taken under section 476, or

(*c*) of the omission to revise any list of jurors or assessors in accordance with section 324, or

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[1] General Acts, Vol. II.

[2] Cf. the Summary Jurisdiction Act, 1847-1848 (11 & 12 Vict., c. 43), s. 9.

[3] In Upper Burma, in British Baluchistan, and in the Sonthal Parganas, orders are not reversible on appeal or revision on technical grounds alone—*see* respectively the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. XV, Bur. Code, the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 19, Bal. Code, and s. 4 (VII) of the Santhal Parganas Justice Regulation, 1893 (V of 1893), Ben. Code.

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, want or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

Illustration.

A Magistrate, being required by law to sign a document, signs it by initials only. This is purely an irregularity, and does not affect the validity of the proceeding.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

CHAPTER XLVI.

MISCELLANEOUS.

Courts and persons before whom affidavits may be sworn.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Power to summon material witness or examine person present.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power to appoint place of imprisonment.

541. (*1*) Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place[1] any person liable to be imprisoned or committed to custody[under this Code shall be confined.

Removal to criminal jail of accused or

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering

[1]A place so appointed is not a "prison" within the meaning of s. 3 (*1*) (*b*) of the Prisons Act, 1894 (IX of 1894), General Acts, Vol. IV.

convicted persons who are in confinement in civil jail, and their return to the civil jail.

the imprisonment or committal may direct that the person be removed to a criminal jail.

(*3*) When a person is removed to a criminal jail under sub-section (*1*), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure[1]; or XIV of 1882.

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure[1]. XIV of 1882.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (*1*) Notwithstanding anything contained in the *Prisoner's Testimony Act, 1869*,[2] any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination. XV of 1869.

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesses.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code[3].

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[1] *See* now the Code of Civil Procedure, 1908 (V of 1908), s. 58, and the Provincial Insolvency Act, 1907 (III of 1907), s. 16, General Acts, Vol. VI.

[2] *See* now the Prisoners Act, 1900 (III of 1900), *infra*.

[3] For rules made in exercise of these powers, for—
(*1*) Ajmer-Merwara, *see* Aj. R. and O.;
(*2*) Assam, *see* the Eastern Bengal and Assam Gazette, 1907, Pt. I, p. 7074;
(*3*) Bombay, *see* Bom. R. and O.; Bombay Gazette, 1907, Pt. I, p. 575;
(*4*) Burma, *see* Bur. R. M.;
(*5*) Central Provinces, *see* C. P. R. and O.;
(*6*) Madras, *see* Mad. R. and O.;
(*7*) Punjab, *see* Punj. R. and O.;
(*8*) United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 108.

Power of Court to pay expenses or compensation out of fine.

[1]**545.** (*1*) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution;

(*b*) in compensation for the injury caused by the offence committed where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

(*2*) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

Payments to be taken into account in subsequent suit.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

Moneys ordered to be paid recoverable as fines.

547. Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine.

Copies of proceedings.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith:

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial.

549. (*1*) The Governor General in Council may make[2] rules, consistent with this Code and the Army Act[3] or any similar law for the time being in force as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial[2], and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act,[3] section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

44 & 45 Vict., c. 58.

44 & 45 Vict., c. 58.

[1] In Upper Burma, the Court imposing a fine or confirming a sentence of an officer under s. 9 (*4*) of the Upper Burma Ruby Regulation, 1887 (XII of 1887), may presume, for the purposes of s. 545, that injury has been caused by the offence, and that substantial compensation is recoverable by civil suit in respect to the injury—*see* s. 9 (*5*) of that Regulation, Bur. Code.

[2] For notification making rules as to cases in which persons subject to military law shall be tried by a Court to which this Code applies or by a Court-martial, *see* Gazette of India, 1902, Pt. I, p. 383; Gen. R. and O.

[3] Coll. Stat., Vol. II.

Apprehension of such persons.

(*2*) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation to persons groundlessly given in charge in presidency-town.

553. (*1*) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(*2*) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(*3*) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

554. (*1*) With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

(*2*) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,— Power of other High Courts to make rules for other purposes.

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*) [1]make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it[2]; and

(*d*) makes rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(*3*) All rules made under this section shall be published in the local official Gazette.

555. Subject to the power conferred by section [554][3], and by section 15 of the Indian High Courts Act, 1861[4], the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. Forms.

24 & 25 Vict. c. 104.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself. Case in which Judge or Magistrate is personally interested.

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[1] In Upper Burma, the Santhal Parganas and in British Baluchistan, rules under s. 554 (*2*) (*c*) may regulate (*a*) fees for processes, and (*b*) the fees to be paid for copies and inspection of records—*see* respectively the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, art. XVI, Bur. Code, the Santhal Parganas Justice Regulation, 1893 (V of 1893), s. 4 (VIII), Ben. Code, and the British Baluchistan Criminal Justice Regulation, 1896 (VIII of 1896), Schedule, art. 20, Bal. Code.

[2] For rules regulating the practice of the Chief Court of Lower Burma and of subordinate Criminal Courts in trials or appeals in which military policemen or reservists of the Native Army are concerned, *see* Burma Gazette, 1904, Pt. IV, p. 268.

For rules by the Chief Court of Lower Burma to regulate practice and procedure in cases of appeal, reference and revision, *see* Burma Gazette, 1904, Pt. IV, p. 509.

[3] These figures were substituted for the figures "553" by the Repealing and Amending Act, 1903 (I of 1903)—*see* Part II of the Second Schedule, *infra*.

[4] Coll. Stat., Vol. I.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner[1] or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

Practising pleader not to sit as Magistrate in certain Courts.

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

Power to decide language of Courts.

558. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.[2]

Powers of Governor General in Council and Local Government exerciseable from time to time.

559. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Officers concerned in sales not to purchase or bid for property.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

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[1] Or a member of a District Board in the Punjab—*see* s. 58 of the Punjab District Boards Act, 1883 (XX of 1883), P. and N. W. Code.

Or a member of a Municipal Committee in the Punjab—*see* s. 188 of the Punjab Municipal Act, 1891 (XX of 1891), in Burma—*see* the Burma Municipal Act, 1898 (Bur. Act III of 1898), and in the Central Provinces—*see* the Central Provinces Municipal Act, 1903 (XVI of 1903,) s. 11, C. P. Code.

Or a member of a Cantonment Committee, or the commanding officer of a cantonment where there is no committee or because he has approved a prosecution, *see* s. 29 of the Cantonments Act, 1889 (XIII of 1889), General Acts, Vol. IV.

[2] For notification declaring the language of such Courts in the Rangoon Town District and in Burma elsewhere, *see* Burma Gazette, 1903, Pt. I, p. 492.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (*1*), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

First offenders.

Power to Court to release upon probation of good conduct instead of sentencing to punishment.

562. In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code[1] punishable with not more than two years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted, that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, and during such period (not exceeding one year) as the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour:

XLV of 1860.

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Provision in case of offender failing to observe conditions of his recognizances.

563. (*1*) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(*2*) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

[1] General Acts, Vol. I.

Conditions as to abode of offender.

564. (*1*) The Court, before directing the release of an offender under section 562, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(*2*) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897.[1] VIII of 1897.

Previously convicted Offenders.

Order for notifying address of previously convicted offender.

565. (*1*) When any person, having been convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code[2] with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or any Magistrate of the first class specially empowered by the Local Government in this behalf, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of residence after release be notified, as hereinafter provided, for a term not exceeding five years from the date of the expiration of such sentence. XLV of 1860.

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may make rules[3] to carry out the provisions of this section relating to the notification of residence by released convicts.

(*4*) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code.[2] XLV of 1860.

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[1] General Acts, Vol. IV.
[2] General Acts, Vol. I.
[3] For rules as to the notification of residence by released convicts in—
(*1*) Bombay, *see* Bombay Government Gazette, 1900, Pt. I, p. 374;
(*2*) Burma, *see* Burma Gazette, 1902, Pt. I, p. 63;
(*3*) Bengal, *see* Calcutta Gazette, 1902, Pt. I, p. 97;
(*4*) British Baluchistan, *see* Gazette of India, 1900, Pt. II, p. 807;
(*5*) Central Provinces, *see* Central Provinces Gazette, 1901, Pt. III, p. 87;
(*6*) Madras, *see* Fort St. George Gazette, 1901, Pt. I, p. 1286;
(*7*) Punjab, *see* Punjab Gazette, 1901, Pt I, p. 182;
(*8*) Assam, *see* Assam Gazette., 1900, Pt. II, p. 504;
(*9*) Coorg, *see* Coorg Gazette, 1901, Pt. I, p. 154.

SCHEDULE I.

ENACTMENTS REPEALED.

(*See section 2.*)

Year.	No.	Short title or subject.	Extent of repea .
1875		High Courts' Criminal Procedure . .	The whole.
1882	X	The Code of Criminal Procedure, 1882 .	The whole.
1884	III	The Criminal Procedure Code Amendment Act, 1884.	The whole.
1886	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	Sections 1 to 19 (both inclusive).
1887	V	Amending the Code of Criminal Procedure, 1882.	The whole.
„	XIV	The Indian Marine Act, 1887 . .	Section 78.
1889	I	The Metal Tokens Act, 1889 . .	Section 7.
„	V	Abolishing the office of Coroner of Madras.	Section 4, sub-section (*1*).[1]
„	[2]XI	*The Lower Burma Courts Act, 1889* .	*So much of the second schedule as relates to the Code of Criminal Procedure, 1882.*
„	XIII	The Cantonments Act, 1889 . . .	So much of the schedule as relates to the Code of Criminal Procedure, 1882.
1891	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	Section 9.
„	IV	Amending the Code of Criminal Procedure, 1882.	The whole.
„	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	Sections 2 and 3.
„	XII	The Repealing and Amending Act, 1891	So much as relates to the Code of Criminal Procedure, 1882.
1894	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	Sections 1 to 4 (both inclusive).
„	X	Amending the Code of Criminal Procedure, 1882.	The whole.
1895	IV	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.	The whole.
1896	XIII	Amending the Code of Criminal Procedure, 1882.	The whole.

[1] *See* also the Repealing and Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.
[2] The whole Act has since been repealed by the Lower Burma Courts Act, 1900 (VI of 1900.)

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code,"[1] are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT.

1	2	3	4	5	6	7	8
XLV of 1860. Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Ditto . .	Ditto . .	Ditto .	Ditto .	The same punishment as for the offence intended to be abetted.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto . .	Ditto . .	Ditto .	Ditto .	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER V.—ABETMENT—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
116—*contd.*	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence abetted is triable.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description, for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Ditto.

119	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed.	Ditto . .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	According as the offence abetted is bailable or not.	Ditto .	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If the offence be not committed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1	2	3	4	5		7	8
XLV of 1860. Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Death or transportation for life and forfeiture of property.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto . .	Ditto . .	Ditto ,	Ditto .	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Queen.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter VI.—Offences against the State.)

123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
124	Assaulting Governor General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
124A	Sedition	Ditto	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Ditto	Transpotation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Ditto.

SCHEDULE II—*continued.*

CHAPTER VI.—OFFENCES AGAINST THE STATE—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Court of Session.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto . .	Ditto . .	Bailable .	Ditto .	Simple imprisonment for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto . .	Ditto . .	Not bailable.	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session.

Chapter VII.—Offences relating to the Army and Navy.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death, or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Fine of 500 rupees.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter VII.—Offences relating to the Army and Navy. Chapter VIII.—Offences against the Public Tranquillity.)

SCHEDULE II—*continued.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian penal Code.[1]	By what Court triable.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first class or second class.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

(*Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity.*)

144	Joining an unlawful assembly armed with any deadly weapon.	Ditto . .	Warrant .	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto.
147	Rioting . . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto .	The same as for the offence.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto .	Ditto .	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. [1]	By what Court triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity.*)

153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant	Not bailable.	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto	Summons	Bailable	Ditto	Fine of 1,000 rupees	Presidency Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
159	Or to go armed.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity. Chap. IX.—Offences by or relating to Public Servants.*)

SCHEDULE II—*continued.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*concluded.*

1	2	3	4	5	6	7	8
XLV of 1860, Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.]	By what Court triable.
160	Committing affray.	Shall not arrest without warrant.	Summons	Bailable.	Not compoundable.	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. IX.—Offences by or relating to Public Servants.)

163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
168	Public servant unlawfully engaging in trade.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant.	May arrest without warrant.	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto . .	Summons .	Ditto .	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

172	Absconding to avoid service of summons or other proceedings from a public servant.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

176	Intentionally omtting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto . .	Ditto . .	Ditto .	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If the information required respects the commission of an offence, etc.	Ditto . .	Ditto . .	D itt .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

SCHEDULE II—*continued.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Shall not arrest without warrant.	Sumons .	Bailable .	Not compoundable.	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto . . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto . .	Summons .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . .	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.

SCHEDULE II—*concluded.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

XLV of 1860, Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.[1]	8 By what Court triable.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If such disobedience causes danger to human life, health or safety, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the fist class.
	Giving or fabricating false evidence in any other case.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto . .	Ditto . .	Ditto .	Ditto .	Death or as above .	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1		3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards.	Shall not arrest without warrant.	Warrant .	[2][Not bailable.]	Not compoundable.	The same as for the offence.	Court of Session.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto . .	Ditto . .	According as the offence of giving such evidence is bailable or not.	Ditto .	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto . .	Ditto .	Bailable .	Ditto .	The same as for giving false evidence.	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.*)

198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto	. . .	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	. . .	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto	. . .	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

[1] General Acts, Vol. I.

[2] The words "Not bailable" were substituted for the word "Bailable" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), *infra*.

SCHEDULE II—*continued.*

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences.—Chapter XI.—False Evidence and Offences against Public Justice.)

206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

V of 1860. Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
211	False charge of offence made with intent to injure.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
	If offence charged be punishable with imprisonment for 7 years or upwards.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(*Schedule II.—Tabular Statement of Offences.—Chapter XI.—False Evidence and Offences against Public Justice.*)

If punishable with transportation for life,[1] or with imprisonment for 10 years.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.
If punishable with imprisonment for 1 year and not for 10 years.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213 Taking gift, etc., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.
If punishable with transportation for life, or with imprisonment for 10 years.	Ditto. .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
If with imprisonment for less than 10 years.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Shall not arrest	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

(*Schedule II.—Tabular Statement of Offences.—Chapter XI.—False Evidence and Offences against Public Justice.*)

215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto .	Ditto .	Ditto .	Ditto	.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto .	Ditto .	Ditto	.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto .	Ditto .	Ditto .	Ditto	.	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years	Ditto .	Ditto .	Ditto .	Ditto	.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto .	Ditto .	Ditto .	Ditto	.	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences.—Chapter XI.—False Evidence and Offences against Public Justice.*)

221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender if the offence be capital.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	ence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
222—*contd.*	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto .	Summons .	Ditto	Ditto .	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences.—Chapter XI.—False Evidence and Offences against Public Justice.*)

If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
If charged with a capital offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
If under sentence of death.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
225A Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—						
(*a*) in cases of intentional omission or sufferance;	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II.—*continued.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

XLV of 1869.

	2	3		5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
225A—*contd.*	(*b*) in case of negligent omission or sufferance.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
226	Unlawful return from transportation.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.

228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto . .	Ditto . .	Pailable .	Ditto .	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

Chapter XII.—Offences relating to Coin and Government Stamps.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

XLV of 1860.

1.	2	3	4	5	6	7	8
	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	Ditto.	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If Queen coin	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.

(*Schedule II.—Tabular Statement of Offences.—Chapter XII.—Offences relating to Coin and Government Stamps.*)

237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto .	Ditto .	Ditto	Ditto .	Ditto . . .	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(Schedule II.—Tabular Statement of Offences.—Chapter XII.—Offences relating to Coin and Government Stamps.)

246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 7 years, and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years, and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 7 years, and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years, and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	May arrest without warrant.	Warrant . .	Not bailable.	Not compoundable.	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditt . .	Ditto . .	Bailable .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.

(*Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.*)

257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto	Ditto	Dit to	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto	Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I,

(*Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps. Chap. XIII.—Offences relating to Weights and Measures.*)

SCHEDULE II—*continued.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
263	Erasure of mark denoting that stamp has been used.	May arrest without warrant.	Warrant	Bailable .	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps .	Ditto . .	Ditto . .	Ditto .	Ditto .	Fine of 200 rupees .	Presidency Magistrate or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chap. XIII.—Offences relating to Weights and Measures. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.									
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.		
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto		
271	Knowingly disobeying any quarantine rules.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto		
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto		
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto		

[1] Gener l Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Fine of 500 rupees.	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto .	Summons .	Ditto .	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto .	Ditto .	Ditto .	Ditto .	Fine of 200 rupees .	Ditto.
284	Dealing with any poisonous substance, so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II—*continued.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class.

(*Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.*)

289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Ditto . . .	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto .	Ditto .	Ditto .	Fine of 200 rupees .	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, etc., of obscene books, etc.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene books, etc., for sale or exhibition.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
294	Obscene songs .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
294A	Keeping a lottery office .	Shall not arrest without warrant.	Summons	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto .	Ditto . .	Ditto .	Ditto .	Fine of 1,000 rupees .	Ditto.

SCHEDULE II.—*continued.*

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

XLV of 1860.

1	2	3	4	5			8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for one year, or fine, or both.	Ditto.
297	Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings or to insult the religion	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

	of any person, or offering indignity to a human corpse.						
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto . .	Ditto .	Compoundable.	Ditto . . .	Ditto.

Chapter XVI.—Offences Affecting the Human Body.

Of Offences affecting Life.

302	Murder . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Death or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto . .	Ditto .	Ditto .	Ditto .	Death . . .	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Offences affecting Life—continued.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
304 *contd.*	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, or fine, or both.	Court of Session.
304A	Causing death by rash or negligent act.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto . .	Ditto . .	Ditto .	Ditto .	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto . .	Ditto . .	Ditto .	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.

307	Attempt to murder	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If such act cause hurt to any person.	Ditto . .	Ditto .	Ditto .	Ditto .	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto . .	Ditto . .	Ditto .	Ditto .	Death, or as above .	Ditto.
308	Attempt to commit culpable homicide.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person.	Ditto . .	Ditto . .	Ditto	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide.	Ditto . .	Ditto .	Ditto .	Ditto .	Simple imprisonment for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug . .	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life, and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants and of the Concealment of Births—continued.

XLV of 1860.

1		3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
312 *contd.*	If the woman be quick with child.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
313	Causing miscarriage without woman's consent.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto . .	Ditto . .	Ditto .	Ditto	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, or fine, or both.	Ditto.

316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	Ditto . .	Ditto . .	Ditto . .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—continued.

1	2	3	4	5	6	7	8
XLV of 1860 Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Codes.	By what Court triable.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Summons .	Bailable .	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto . .	Ditto . .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body.)

327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto .	. Warrant .	Ditto	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto .	. Ditto .	Ditto	Ditto .	Ditto . . .	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Ditto .	. Ditto .	Ditto	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto .	. Ditto .	Bailable	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto .	. Ditto .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
332	Voluntarily causing hurt to deter public servant from his duty.	May arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not in-	May arrest without warrant.	Ditto .	Ditto .	Compoundable when permis-	Imprisonment of either description for 4 years, or fine	Court of Session, Presidency Magis-

(*Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.*)

	tending to hurt any other than the person who gave the provocation.								
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.	
337	Causing hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.	
338	Causing[1] grievous hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.	
	Of Wrongful Restraint and Wrongful Confinement.								
341	Wrongfully restraining any person.	May arrest without warrant.	Summons.		Bailable.	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.	

[1] General Act 8, Vol. 1.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Wrongful Restraint and Wrongful Confinement—concluded.

XLV of 1860.

1	2	3	4		6	7	8
Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
342	Wrongfully confining any person.	May arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto . .	Ditto . .	Ditto .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for 10 or more days.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, in	Court of Session, Presidency Mag-

	has been issued for his liberation.					addition to imprisonment under any other section.	istrate or Magistrate of the first or second class.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
347	Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling a restoration of property, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant .	Ditto .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Compoundable.	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Any Magistrate.

Of Kidnapping, Abduction, Slavery and Forced Labour.

363	Kidnapping . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto . .

SCHEDULE II—*continued.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Kidnapping, Abduction, Slavery and Forced Labour—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
368	Concealing or keeping in confinement a kidnapped person.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Punishment for kidnapping or abduction	Court of Session.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto . .	Bailable .	Ditto .	Ditto . . .	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto . .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for purposes of prostitution.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Mag-

							istrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto . .
374	Unlawful compulsory labour.	Ditto . .	Ditto . .	Bailable .	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
			Of Rape.				
376	Rape—						
	If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case .	May arrest without warrant.	Warrant .	Not bailable.	Ditto .	Ditto . . .	Ditto.
			Of Unnatural Offences.				
377	Unnatural offences .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
379	Theft . . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate

	hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.						of the first class.

Of Extortion.

384	Extortion . . .	Shall not arrest without warrant.	Warrant	Bailable .	Not compoundable.	Imprisonment of either description for three years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrent or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not,	Punishment under the Indian Penal Code.[1]	By what Court triable.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
	If the offence threatened be an unnatural offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life.	Ditto.

Of Robbery and Dacoity.

392	Robbery . .	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity . . .	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
396	Murder in dacoity .	Ditto .	Ditto . .	Ditto .	Ditto .	Death, transportation for life or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto . .	Ditto . .	Ditto .	Ditto .	Rigorous imprisonment for not less than 7 years.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Robbery and Dacoity—concluded.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Rigorous imprisonment for not less than seven years.	Court of Session.
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assem-	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

	bled for the purpose of committing dacoity.						

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoun d - able.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possion of any person legally entitled to it.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
405	If by clerk or person employed by deceased.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust—concluded.

1	2	3	4	5	6	7	
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
407	Criminal breach of trust by a carrier, wharfinger, etc.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
409	Criminal breach of trust by a clerk or servant.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Cheating—concluded.

1	2	3	4	5	6	7	8
XLV of 1860 Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

[1] General Acts, Vol. I.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief.

XLV of 1860.

1	2	3	4	5		7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
426	Mischief . . .	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto . .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto . .	Ditto .	Not compoundable.	Ditto . . .	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.)

429	mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.		Court of Session.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—continued.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
434	Mischief by destroying or moving, etc., a land mark fixed by public authority.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto .	Ditto . .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
437	Mischief with intent to destroy or make un-	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description	Ditto.

	safe a decked vessel or a vessel of 20 tons burden.					for 10 years, and fine.	
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Criminal Trespass.

447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House trespass	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Trespass—continued.

XLV of 1860. Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	Punishment under the Indian Penal Code.	8 By what Court triable.
449	House-trespass in order to the commission of an offence punishable with death.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years, and fine.	Any Magistrate.
	If the offence is theft .	Ditto . .	Ditto .	Not bailable.	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate

(*Schedule II.—Tabular Statement of Offences. Chapter XVII.—Offences against Property.*)

452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Presidency Magistrate or Magistrate of the first or second class.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	D	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*continued.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
456	Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 5 years, and fine.	Ditto.
	If the offence is theft .	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 14 years, and fine.	Ditto.

458	Lurking house-trespass or house breaking by night, after preparation made for causing hurt, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto . .	Ditto . .	Ditto	Ditto .	Ditto . . .	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

1	2	3	4	5	6	7	8
XLV of 1860.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.]	By what Court triable.
465	Forgery . . .	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session.
467	Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc.	Ditto . .	Ditto . .	Ditt .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 3 years, and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto . .	Ditto . .	Ditto .	Ditto .	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto . .	Ditto .	Ditto .	Ditto . . .	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.)

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offences.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code[1], or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Warrant .	Bailable .	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code[1].	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
	If the document is one of the description mentioned in section	Ditto . .	Ditto . .	Ditto .	Ditto .	Transportation for life, or imprisonment of either de-	Ditto.

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.*)

	467 of the Indian Penal Code[1].							scription for 7 years, and fine.	
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code[1], or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto		Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code,[1] or possessing counterfeit marked material.	Ditto	Ditto	Not bailable.	Ditto			Imprisonment of either description for 7 years, and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto	Ditto	Ditto	Ditto	Ditto		Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
477A	Falsification of accounts	Ditto	Ditto	Ditto	Ditto	Ditto		Ditto	Ditto.
	Of Trade and Property Marks.								
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.			Presidency Magistrate or Magistrate of the first or second class.

[1] General Acts, Vol. I.

(*Schedule II.—Tabular Statement of Offences. Chapter XVIII.—Offences relating to Documents and to Trade or Property Marks.*)

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*continued.*

Of Trade and Property Marks—concluded.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description	Presidency Magistrate

	counterfeit property or trade-mark.					for 1 year, or fine, or both.	or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[2]*Of Currency-Notes and Bank-Notes.*

489A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

[1] General Acts, Vol. I.
[2] This portion was added to the Schedule by s. 3 of the Currency Notes Forgery Act, 1899 (XII of 1899), *infra*.

SCHEDULE II—*continued.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concluded.*

Of Currency-Notes and Bank-Notes—continued.

XLV of 1860.

2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment and the Indian Penal Code.[1]	By what Court triable.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

490	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable.	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

SCHEDULE II—*continued.*

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

XLV of 1860.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto . .	Ditto . .	Bailable .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto . .	Ditto . .	Not bailable.	Ditto .	Imprisonment of either description for 10 years, and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married,	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 7 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XX.—Offences relating to Marriage. Chapter XXI.—Defamation.)

	knowing that he is not thereby lawfully married.							
497	Adultery	Ditto . .	Ditto . .	Bailable .	Compoundable.	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation . .	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto . .	Ditto . .	Ditto	Ditto .	Ditto . . .	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto . .	Ditto . .	Ditto .	Ditto .	Ditto . . .	Ditto.

SCHEDULE II—*continued.*

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

XLV of 1860.

1		3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant .	Bailable .	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Ditto . .	Ditto . .	Not bailable.	Not compoundable.	Ditto . . .	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation .	Ditto . .	Ditto . .	Bailable .	Compoundable.	Ditto . . .	[2] [Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc.	Ditto . .	Ditto . .	Ditto .	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chapter XXII.—Criminal Intimidation, Insult and Annoyance. Chapter XXIII.—Attempts to commit Offences.)

507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 2 years in addition to the punishment under above section.	Court of Session, Presidency Magistrate or Magistrate of the first class.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto . .	Ditto . .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Ditto . .	Ditto . .	Ditto .	Ditto .	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

[1] General Acts, Vol. I.

[2] These words were substituted for the word "Ditto" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), *infra*.

SCHEDULE II—*concluded.*

OFFENCES AGAINST OTHER LAWS.

1	2	3	4	5	6	7	8
XLV of 1860. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.[1]	By what Court triable.
	If punishable with death, transportation or imprisonment for 7 years or upwards.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	.....	Court of Session.
XI of 1878.	If punishable with imprisonment for 3 years and upwards, but less than 7.	Ditto . .	Ditto . .	Ditto . Except in cases under the Indian Arms Act, 1878[2], section 19, which shall be bailable.	Ditto .	.....	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	.....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If punishable with imprisonment for less than 1 year, or with fine only.	Ditto . .	Ditto . .	Ditto .	Ditto .	.....	Any Magistrate.

[1] General Acts, Vol. I.
[2] General Acts, Vol. II.

SCHEDULE III.

(*See section 36.*)

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

(1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.
(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.
(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.
(4) Power to issue proclamations in cases judicially before him, section 87.
(5) Power to attach and sell property in cases judicially before him, section 88.
(6) Power to restore attached property, section 89.
(7) Power to require search to be made for letters and telegrams, section 95.
(8) Power to issue search-warrant, section 96.
(9) Power to endorse a search-warrant and order delivery of thing found, section 99.
(10) Power to command unlawful assembly to disperse, section 127.
(11) Power to use civil force to disperse unlawful assembly, section 128.
(12) Power to require military force to be used to disperse unlawful assembly, section 130.
(13) Power to record statements or confessions during a police-investigation, section 164.
(14) Power to authorize detention of a person during a police-investigation, section 167.
(15) Power to detain an offender found in court, section 351.
(16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445.
(17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (*2*).
(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514.
(19) Power to make order as to disposal of property, section 517.
(20) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of a third class.
(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.
(3) Power to postpone issue of process, section 202.
(4) Power to order destruction of libellous and other matter, section 521.

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.
(2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
(3) Power to issue search-warrant for discovery of persons wrongfully confined section 100.
(4) Power to require security to keep the peace, section 107.
(5) Power to require security for good behaviour, section 109.
(6) Power to discharge sureties, section 126.
(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.
(8) Power to commit for trial, section 206.
(9) Power to stop proceedings when no complaint, section 249.
(10) Power to make orders of maintenance, sections 488 and 489.

(*Schedule III.—Ordinary Powers of Provincial Magistrates.*)

SCHEDULE III—*continued.*

(11) Power to take evidence on commission, section 503.
(12) Power to recover penalty on forfeited bond, section 514.
(13) Power to make order as to first offenders, section 562.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

(1) The ordinary powers of Magistrate of the first class.
(2) Power to direct warrants to landholders, section 78.
(3) Power to require security for good behaviour, section 110.
(4) Power to make orders as to local nuisances, section 133.
(5) Power to make orders prohibiting repetitions of nuisances, section 143.
(6) Power to make orders under section 144.
(7) Power to depute Subordinate Magistrate to make local inquiry, section 148.
(8) Power to order police investigation into cognizable case, section 156.
(9) Power to receive report of police-officer and pass order, section 173.
(10) Power to hold inquest, section 174.
(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
(12) Power to entertain complaints, section 190.
(13) Power to receive police-reports, section 190.
(14) Power to entertain cases without complaint, section 190.
(15) Power to transfer cases to a Subordinate Magistrate, section 192.
(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
(17) Power to forward record of inferior Court to District Magistrate, section 435 (*2*).
(18) Power to sell property alleged or suspected to have been stolen, etc., section 524.
(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.
(20) Power to order released convicts to notify residence, section 565.

V.—Ordinary Powers of a District Magistrate.

(1) The ordinary powers of a Sub-divisional Magistrate.
(2) Power to require delivery of letters, telegrams, etc., section 95.
(3) Power to issue search-warrants for documents in custody of postal or telegraph authority, section 96.
(4) Power to require security for good behaviour in case of sedition, section 108.
(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
(6) Power to cancel bond for keeping the peace, section 125.
(7) Power to try summarily, section 260.
(8) Power to quash convictions in certain cases, section 350.
(9) Power to hear appeals from orders requiring security for good behaviour, section 406.
(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
(11) Power to call for records, section 435.
(12) Power to order commitment, section 456.
(13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437.
(14) Power to report case to High Court, section 438.
(15) Power to try European British subjects, section 443.
(16) Power to sentence European British subject to more than three months' imprisonment or one thousand rupees, fine, or both, section 446.

[1] Under the Punjab Frontier Crimes Regulation, 1901 (III of 1901), additional District Magistrates appointed under s. 4 of the Regulation have the powers specified in Part V of the Third Schedule—*see* s. 4 (*2*) of the Regulation, P. and N.-W. Code.

(*Schedule III.—Ordinary Powers of Provincial Magistrates. Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.*)

SCHEDULE III—*concluded.*

(17) Power to appoint person to be public prosecutor in particular case, section 492 (2).
(18) Power to issue commission for examination of witness, sections 503, 506.
(19) Power to hear appeals from or revise orders passed under sections 514, 515.
(20) Power to compel restoration of abducted female, section 552.

SCHEDULE IV.

(*See sections 37 and 38.*)

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATE MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED.

BY THE LOCAL GOVERNMENT.

(1) Power to require security for good behaviour in case of sedition, section 108:
(2) Power to require security for good behaviour, section 110:
(3) Power to make orders as to local nuisances, section 133:
(4) Power to make orders prohibiting repetitions of nuisances, section 143:
(5) Power to make orders under section 144:
(6) Power to hold inquests, section 174:
(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186:
(8) Power to take cognizance of offences upon complaint, section 190:
(9) Power to take cognizance of offences upon police reports, section 190:
(10) Power to take cognizance of offences without complaint, section 190:
(11) Power to try summarily, section 260:
(12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407:
(13) Power to sell property alleged or suspected to have been stolen, etc., section 524:
(14) Power to order released convicts to notify residence, section 565:
(15) Power to try cases under section 124A of the Indian Penal Code.

BY THE DISTRICT MAGISTRATE.

(1) Power to make orders prohibiting repetitions of nuisances, section 143:
(2) Power to make orders under section 144:
(3) Power to hold inquests, section 174:
(4) Power to take cognizance of offences upon complaint, section 190:
(5) Power to take cognizance of offences upon police reports, section 190:
(6) Power to transfer cases, section 192.

(*Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.*)

SCHEDULE IV—*continued.*

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED.	By the Local Government.	[1] * * * * (2) Power to make orders prohibiting repetitions of nuisances, section 143: (3) Power to make orders under section 144: (4) Power to hold inquests, section 174: (5) Power to take cognizance of offences upon complaint, section 190: (6) Power to take cognizance of offences upon police-reports, section 190: (7) Power to take cognizance of offences without complaint, section 190: (8) Power to commit for trial, section 206: (9) Power to make order as to first offenders, section 562.
	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police-reports, section 190.
POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED.	By the Local Government.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police-reports, section 190: (6) Power to commit for trial, section 206.
	By the District Magistrate.	(1) Power to make orders prohibiting repetitions of nuisances, section 143: (2) Power to make orders under section 144: (3) Power to hold inquests, section 174: (4) Power to take cognizance of offences upon complaint, section 190: (5) Power to take cognizance of offences upon police-reports, section 190.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED.	By the Local Government.	Power to call for records, section 435.

[1] The words and figures "(1) Power to pass sentences of whipping, section 32" were repealed by the Whipping Act, 1909 (IV of 1909), General Acts, Vol. VI, Appendix.

SCHEDULE V.

(*See section 555.*[1])

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section 68.*)

To of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*) of on the day of . Herein fail not.

Dated this day of 18

(*Seal.*) (*Signature.*)

II.—WARRANT OF ARREST.

(*See section 75.*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

(*See section 76.*)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of with one surety in the sum of (*or* two sureties each in the sum of) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of 18

(*Signature.*)

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(*See section 86.*)

I (*name*), of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default

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[1] These figures were substituted for the figures "554" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (1 of 1903), *infra*.

sherein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of upees .

Dated this day of 18 .

(*Signature.*)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court (*or* before me) to answer the said complaint [on the day of][1]

Dated this day of 18 .

(*Seal.*) (*Signature.*)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock to be examined touching the offence complained of.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(*See section 88.*)

To the Police-officer in charge of the Police-station at .

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant); and thereupon a Proclamation was duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

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[1] These words were substituted for the words "within days from this date" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), *infra*.

(Schedule V.—Forms.)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of 18

(*Seal.*) (*Signature.*)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88.)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared; and whereas the said is possessed of certain land paying revenue to Government in the village (*or* town) of in the District of

You are hereby authorised and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of 18 .

(*Seal.*) (*Signature.*)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant.*)

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name, and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name*), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(*See section 96.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made *or* about to be made into the said offence *or* suspected offence;

This is to authorize and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*) and, if found to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(*See section 98.*)

To (*name and designation of a Police-Officer above the rank of a Constable*).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if for either of the other purposes expressed in the section state the purpose in the words of the section*);

This is to authorize and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or if the search is to be confined to a part, specify the part clearly*) and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

X.—BOND TO KEEP THE PEACE.

(*See section 107.*)

WHEREAS I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace, for the term of

I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XI.—BOND FOR GOOD BEHAVIOUR.

(*See sections 108, 109 and 110.*)

WHEREAS I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her subjects for the term

of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all Her subjects during the said term ; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees

Dated this day of 18 .

(*Signature.*)

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all Her subjects during the said term ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(*See section 114.*)

To of

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorized agent) at the Office of the Magistrate of on the day of , 18 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add,* and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees (each *if more than one*)] that you will keep the peace for the term of

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name and address*) appeared before me in person (*or* by his authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period of months ; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime[1] [be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

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[1]These words were submitted for the words " comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released " by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (I of 1903), *infra*.

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, that he is unable to give any satisfactory account of himself);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* housebreaker, etc., *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections 123 and 124.*)

To the Superintendent (*or* Keeper) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure;

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(*See section 133.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, etc., (*describe the road or*)

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[1] These words were substituted for the words "comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released" by the Repealing and Amending Act, 1903 (I of 1903)—*see* s. 3 and Part II of Second Schedule, *infra*.

public place), by, etc., (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well *or* excavation) being without a fence (*or* insecurely fenced);

or

WHEREAS, etc., etc. (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.;

or

I do hereby direct and require you, etc., (*as the case may be*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(*See section 138.*)

WHEREAS on the day of 18 , an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of , for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint (*the names, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section 140.*)

To (*name, description and address*).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto. XLV of 1860.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(*See section 142.*)

To (*name, description and address*).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section 143.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc., (*state the proper recital, guided by* Form No. XVI or Form No. XXI, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc., (*as the case may be*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See section 144.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public

street, etc., (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

or

WHEREAS, etc., etc., (*as the case may be*) ;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road ;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE.

(*See section 145.*)

IT appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true ;

I do decide and declare that he is (*or* they are) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or* their) possession in the meantime.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(*See section 146.*)

To the Police-officer in charge of the Police-station at [*or*, To the Collector of].

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [*or* I am unable to satisfy myself as to which of the said parties was in possession as aforesaid] ;

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147.*)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or, if the use is enjoyable only at particular seasons, say* "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section 169.*)

I (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court of on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(*See section 170.*)

I (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next, and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one A. B., and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees.

Dated this day of 18 .

(*Signature.*)

XXVII—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(See section 218.)

THE Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc., *(state the offence as in the charge)*.

Dated this day of 18 .

(Signature.)

XXVIII.—CHARGES.

(See sections 221, 222, 223.)

(I) CHARGES WITH ONE HEAD.

(a) I [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

(b) that you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court].

On Penal Code, section 121.

(c) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for (b)*]:—

(2) That you, on or about the day of , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 124.

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*], a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 161.

(4) That you, on or about the day of , at , did [or omitted to do, *as the case may be*] such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 166.

(5) That you, on or about the day of , at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 193.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 304.

(7) That you, on or about the day of , at abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 306.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 325.

(9) That you, on or about the day of , at , robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 395.

[*In cases tried by Magistrates substitute* "within my cognizance" *for* "within the cognizance of the Court of Session," and in (*c*) *omit* "by the said Court."]

(II) CHARGE WITH TWO OR MORE HEADS.

(*a*) I [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

(*b*) *First.*—That you, on or about the day of , at knowing a coin to be counterfeit, delivered the same to another person, by name *A.B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On section 241.

Secondly.—That you, on or about the day of , at knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)]:—

(2) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court or Session [*or* High Court].

(3) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

Secondly.—That you, on or about the day of , at committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(4) That you, on or about the day of , in the course of the inquiry into , before , stated in evidence that " " and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Alternative charges on section 193.

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session " *and in* (*c*) *omit* " by the said Court ".]

(III) CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I (*name and office of Magistrate, etc.*), hereby charge you (*name of accused person*) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* { High Court / Magistrate } *as the case may be*].

And you, the said (*name of accused*), stand further charged that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was had*) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(*See sections 245 and 258.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS on the day of , 18 , (*name of prisoner*), the (1st 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 18 was convicted before me (*name and official designation*) of the offence (*mention the offence or offences concisely*) under section (*or* sections) of the Indian Penal Code (*or of* Act and was sentenced to (*state the punishment fully and distinctly*):

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY DISTRESS.

(*See section 250.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*

of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXI.—Summons to Witness.

(*See sections 68 and 252.*)

To of

WHEREAS complaint has been made before me that has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXII.—Precept to District Magistrate to summon Jurors and Assessors.

(*See section 326.*)

To the District Magistrate of .

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of Jurors and Assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors and Assessors.*)

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXIII.—Summons to Assessor or Juror.

(*See section 328.*)

To (*name*) of (*place*).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (*or* a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under my hand and the seal of office, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(*See section 374.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at the Session held before me on the day of 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(*See section 381.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(*See sections 381 and 382.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*);

This is to authorize and require you, the said Superintendent (*or* Keeper), safely to keep the said (*prisoner's name*) in your custody in the said Jail as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said Jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(*Schedule V.—Forms.*)

XXXVII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(*See section 386.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of 18 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section 480.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees ; or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorize and require you, the Superintendent (*or* Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the fine be sooner paid; and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this , day of 18 .

(*Seal.*) (*Signature.*)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section 485.*)

To (*name and description of officer of Court*).

WHEREAS (*name and description*), being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

This is to authorize and require you to take the said (*name*) into custody and him safely to keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

(Schedule V.—Forms.)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(See section 488.)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees : and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of : And thereupon an order was made adjudging him to undergo simple (*or* rigorous) imprisonment in the said Jail for the period of ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 488.)

To (*name and designation of the Police-officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of 18 .

(*Signature.*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of

the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees

Dated this day of 18 .

(*Signature.*)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section 500.*)

To the Superintendent (*or* Keeper) of the Jail at .

(*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section 514.*)

To the Police-officer in charge of the Police-station at .

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section 514.*)

To of .

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has failed to appear before this Court and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.* (*Signature.*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To of

WHEREAS on the day of 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India ; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited ;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section 514.*)

To of

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*) ;

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention ; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of

(*Seal.*) (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby

the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*) and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, description and address*).

WHEREAS on the day of 18 , you entered into a bond not to commit, etc., (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of 18

(*Seal.*) (*Signature.*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name and designation of Police-officer*), at the Police-station of .

WHEREAS (*name and description*) did on the day of 18 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc., (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached or so much of it as may be sufficient to realise the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at .

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has

forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said Civil Jail, to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) , and to return that warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS (*name, description and address*) did, on the day of 18 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 18 .

(*Seal.*) (*Signature.*)

THE INDIAN POST OFFICE ACT, 1898.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent, application and commencement.
2. Definitions.
3. Meanings of "in course of transmission by post" and "delivery".

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

4. Exclusive privilege of conveying letters reserved to the Government.
5. Certain persons expressly forbidden to convey letters.
6. Exemption from liability for loss, misdelivery, delay or damage.

CHAPTER III.

POSTAGE.

7. Power to fix rates of inland postage.
8. Power to make rules as to payment of postage and fees in certain cases.
9. Power to make rules as to registered newspapers.
10. Power to declare rates of foreign postage.
11. Liability for payment of postage.
12. Recovery of postage and other sums due in respect of postal articles.
13. Customs-duty paid by the Post Office to be recoverable as postage.
14. Post Office marks *primâ facie* evidence of certain facts denoted.
15. Official mark to be evidence of amount of postage.

CHAPTER IV.

POSTAGE STAMPS.

16. Provision of postage stamps and power to make rules as to them.
17. Postage stamps to be deemed to be stamps for the purpose of revenue,

CHAPTER V.

Conditions of Transmission of Postal Articles.

Sections.

18. Re-delivery to sender of postal article in course of transmission by post.
19. Transmission by post of anything injurious prohibited.
20. Transmission by post of anything indecent, etc., prohibited.
21. Power to make rules as to transmission by post of postal articles.
22. Power to postpone despatch or delivery of certain postal articles.
23. Power to deal with postal articles posted in contravention of Act.
24. Power to deal with postal articles containing goods contraband or liable to duty.
25. Power to intercept notified goods during transmission by post.
26. Power to intercept postal articles for public good.
27. Power to deal with postal articles from abroad bearing fictitious or previously used stamps.

CHAPTER VI.

Registration, Insurance and Value-payable Post.

28. Registration of postal articles.
29. Power to make rules as to registration.
30. Insurance of postal articles.
31. Power to require insurance of postal articles.
32. Power to make rules as to insurance.
33. Liability in respect of postal articles insured.
34. Transmission by post of value-payable postal articles.
35. Power to make rules as to value-payable postal articles.
36. Power to give effect to arrangements with other countries.

CHAPTER VII.

Undelivered Postal Articles.

37. Power to make rules as to disposal of undelivered postal articles.
38. Disposal of undelivered postal articles at Office of Post Master General.
39. Final disposal of undelivered postal articles.

CHAPTER VIII.

Ship Letters.

40. Duty of master of ship departing from any port in British India, and not being a mail ship, to convey mail bags.

SECTIONS.

41. Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.
42. Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

CHAPTER IX.

MONEY ORDERS.

43. Power to maintain money order system and to make rules as to remittances thereby.
44. Power for remitter to recall money order or alter name of payee.
45. Power to provide for the issue of postal orders.
46. Power to give effect to arrangements with other countries.
47. Recovery of money order paid to the wrong person.
48. Exemption from liability in respect of money orders.

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences by Officers of the Post Office.

49. Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.
50. Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or postal articles.
51. Penalty for making false entry in register kept by person employed to carry or deliver postal articles.
52. Penalty for theft, dishonest misappropriation, secretion, destruction or throwing away of postal articles.
53. Penalty for opening, detaining or delaying postal articles.
54. Penalty for fraud in connection with official marks and for receipt of excess postage.
55. Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.
56. Penalty for fraudulently sending unpaid postal articles.
57. Punishment of offences committed in India, outside British India.

Other Offences.

58. Penalty for contravention of section 4.
59. Penalty for contravention of section 5.
60. Penalty for breach of rules under section 16.

SECTIONS.

61. Penalty for contravention of section 19 or 20.
62. Penalty for defiling or injuring post office letter-boxes.
63. Penalty for affixing without authority thing to, or painting, tarring or disfiguring post office or post office letter-box.
64. Penalty for making false declaration.
65. Penalty for master of ship failing to comply with the provisions of section 40 or 41.
66. Penalty for detention of letters on board vessel arriving in port.
67. Penalty for detaining mails or opening mail bag.
68. Penalty for retaining postal articles wrongly delivered or mail bags.
69. Penalty for unlawfully diverting letters.

General.

70. Penalty for abetting, or attempting to commit, offences under Act.
71. Property in cases of offences to be laid in the Post Office.
72. Authority for prosecutions under certain sections of Act.

CHAPTER XI.

SUPPLEMENTAL.

73. Zamindari and other district posts.
74. General power to make rules and provisions as to rules under Act.
75. Delegation of powers, other than rule-making powers, to Director General.
76. Repeal.
77. Saving.

THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

ACT No. VI of 1898.[1]

[*22nd March 1898.*]

An Act to consolidate and amend the Law relating to the Post Office in India.

WHEREAS it is expedient to consolidate and amend the law relating to the Post Office in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent, application and commencement.

1. (*1*) This Act may be called the Indian Post Office Act, 1898.

(*2*) It extends to the whole of British India, inclusive of * * , British Baluchistan, the Santhâl Parganas and the Pargana of Spiti; and[2] it applies also to—

(*a*) all Native Indian subjects of Her Majesty in any place without and beyond British India;

(*b*) all other British subjects within the territories of any Native Prince or Chief in India; and

(*c*) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince or Chief in India.

(*3*) It shall come into force on the first day of July 1898.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Director General" means the [3]Director General of the Post Office of India:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 385; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 211; for Proceedings in Council, *see ibid*, 1897, Pt. VI, p. 249; *ibid*, 1898, Pt. VI, pp. 23, 99 and 285 to 289.

The Act has been applied, under s. 3 (*2*) of the Chin Hills Regulation, 1896 (V of 1896), to tracts in which ss. 2 and 4 to 41 of the Regulation have been applied, *see* Burma Gazette, 1898, Pt. I, p. 420.

It has been declared to be applicable to members of a Hill-tribe in a Hill-tract under s. 3 (*2*) of the Kachin Hill Tribes Regulation, 1895 (I of 1895), *see* Burma Gazette, 1898, Pt. I, p. 564.

It has been declared, by notification under s. 5 of the Angul District Regulation, 1894 (I of 1894), to be in force in the District of Angul.

It has been declared to be in force in the Chittagong Hill-Tracts by the Chittagong Hill-tracts Regulation, 1900 (I of 1900), Bur. Code.

It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, Bur. Code.

As to rules made under the Post Office Act, which are now in force or are in force from time to time, *see* the Indian Postal Guide, which is published by the Post Office half-yearly; *see* also Gazette of India, 1908, Pt. I, pp. 731, 843, 876, 891.

[2] The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule.

(*b*) the expression "inland," used in relation to a postal article, means—

(i) posted in British India and addressed to any place in British India or to any place for which a post office is established by the Governor General in Council beyond the limits of British India; or

(ii) posted at any post office established by the Governor General in Council beyond the limits of British India and addressed to any place for which any such post office is established or to any place in British India :

[1][Provided that the expression "inland" shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification :]

(*c*) the expression "mail bag" includes a bag, box, parcel or any other envelope or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article :

(*d*) the expression "mail ship" means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the Government of India or Her Majesty's Government or the Government of any British possession or foreign country :

(*e*) the expression "officer of the Post Office" includes any person employed in any business of the Post Office or on behalf of the Post Office :

(*f*) the expression "postage" means the duty chargeable for the transmission by post of postal articles ;

(*g*) the expression "postage stamp" means any stamp provided by the Governor General in Council for denoting postage or other fees or sums payable in respect of postal articles in this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, postcard or other article ;

(*h*) the expression "post office" includes every house, building, room, carriage or place used for the purposes of the Post Office, and

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[1]Added by s. 2 of the Indian Post Office (Amendment) Act, 1903 (II of 1903), *infra*.
For notification under the proviso, *see* Gen. R. and O., Gazette of India, 1903, Pt. I, p. 245.

every letter-box provided by the Post Office for the reception of postal articles :

(*i*) the expression " postal article " includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post :

(*j*) the expression " Post Master General " includes a Deputy Post Master General or other officer exercising the powers of a Post Master General : and

(*k*) the expression " the Post Office " means the department presided over by the Director General.

(3) For the purposes of this Act,—

Meanings of " in course of transmission by post " and " delivery. "

(*a*) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII :

(*b*) the delivery of a postal article of any description to a postman or other person authorized to receive postal articles of that description for the post shall be deemed to be a delivery to a post office : and

(*c*) the delivery of a postal article at the house or office of the addressee or to the addressee or his servant or agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

Exclusive privilege of conveying letters reserved to the Government.

4. (*1*) Wherever within British India posts or postal communications are established by the Governor General in Council, the Governor General in Council shall have the exclusive privilege of conveying by post from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say :—

(*a*) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them ;

(*b*) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose; and

(*c*) letters solely concerning goods or property, sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them:

Provided that nothing in this section shall authorize any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

(*2*) For the purposes of this section and section 5, the expression "letters" includes postcards.

Certain persons expressly forbidden to convey letters.

5. Wherever within British India posts or postal communications are established by the Governor General in Council, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say:—

(*a*) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages; and

(*b*) owners and masters of vessels sailing or passing on any river or canal in British India, or between any ports or places in British India, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, misdelivery, delay or damage.

6. The Secretary of State for India in Council shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Governor General in Council as hereinafter provided; and no officer of the Post Office shall incur any liability by reason of any such loss, misdelivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

CHAPTER III.

POSTAGE.

Power to fix rates of inland postage.

7. (*1*) The Governor General in Council may, by notification in the Gazette of India, fix the rates[1] of postage and other sums to be charged in

[1] For notification fixing rates of postage on inland letters, *see* Gazette of India 1908, Pt. I, pp. 731, 843, 876.

respect of postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged:

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

(*2*) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

(*3*) The Governor General in Council may, by notification in the Gazette of India, declare what packets may be sent by the inland post as book, pattern and sample packets within the meaning of this Act.

Power to make rules as to payment of postage and fees in certain cases.

8. The Governor General in Council may, by rule,—[1]

(*a*) require the prepayment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which prepayment shall be made;

(*b*) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid;

(*c*) provide by the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules; and

(*d*) prescribe the fees to be charged for the "express delivery" of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Explanation.—"Express delivery" means delivery by a special messenger or conveyance.

Power to make rules as to registered newspapers.

9. (*1*) The Governor General in Council may make rules[2] providing for the registration of newspapers for transmission by inland post as registered newspapers.

(*2*) For the purpose of such registration, every publication, consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely:—

(*a*) that it is published in numbers at intervals of not more than thirty-one days; and

(*b*) that it has a *bonâ fide* list of subscribers.

(*3*) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper:

[1] Gazette of India, 1908, Pt. I, p. 731.

[2] For revised rates of postage on registered newspapers, *see* Gazette of India, 1908, Pt. I, pp. 731, 843.

Provided that no such extra or supplement shall be so deemed unless it consists wholly or of great part of matter like that of the newspaper and has the title and date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

Power to declare rates of foreign postage.

10. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between British India and the United Kingdom or such possession or country, the Governor General in Council may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the scale of weight, terms and conditions subject to which the rates so declared shall be charged.[1]

(*2*) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

Liability for payment of postage.

11. (*1*) The addressee of a postal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened :

Provided that, if any such postal article appears to the satisfaction of the Post Master General to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(*2*) If any postal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of postage and other sums due in respect of postal articles.

22. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the Post Office authorized in this behalf by the written order of the Post Master General, be recovered for the use of the Post Office from the person so refusing, as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident; and the Post Master General may further direct that any other postal article, not being on Her Majesty's service, addressed to that

[1] For notification extending Indian inland rates of postage to letters, etc., sent to Ceylon, *see* Gazette of India, 1908, Pt. 1, p. 731.
For notification prescribing rates of postage for letters from British India to the United Kingdom and to certain British possessions, *see ibid.*

person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Customs-duty paid by the Post Office to be recoverable as postage.

13. When a postal article, on which any duty of customs is payable, has been received by post from any place beyond the limits of British India, and the duty has been paid by the postal authorities at any customs-port or elsewhere, the amount of the duty shall be recoverable as if it were postage due under this Act.

Post Office marks *primâ facie* evidence of certain facts denoted.

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of a postal article,—

(*a*) the production of the postal article, having thereon the official mark of the Post Office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *primâ facie* evidence of the fact so denoted, and

(*b*) the person from whom the postal article purports to have come, shall, until the contrary is proved, be deemed to be the sender thereof.

Official mark to be evidence of amount of postage.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Post Office of British India or to the Post Office of the United Kingdom or of any British possession or foreign country, shall be *primâ facie* evidence that the sum denoted as aforesaid is so due.

CHAPTER IV.

Postage Stamps.

Provision of postage stamps and power to make rules as to them.

16. (*1*) The Governor General in Council shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Act.

(*2*) The Governor General in Council may make rules[1] as to the supply, sale and use of postage stamps.

(*3*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the price at which postage stamps shall be sold;

(*b*) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act;

[1] *See* Gazette of India, 1908, Pt. I, p. 731.

(*c*) prescribe the conditions with regard to perforation, defacement and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums ;

(*d*) regulate the custody, supply and sale of postage stamps ;

(*e*) declare the persons by whom and the terms and conditions subject to which postage stamps may be sold ; and

(*f*) prescribe the duties and remuneration of persons selling postage stamps.

Postage stamps to be deemed to be stamps for the purpose of revenue.

17. Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code,[1] and, subject to the other provisions of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the Governor General in Council directs that prepayment shall be made in some other way.

XLV of 1860.

CHAPTER V.

Conditions of Transmission of Postal Articles.

Redelivery to sender of postal article in course of transmission by post.

18. (*1*) The Governor General in Council may, by rule,[2] provide for the redelivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post.

(*2*) Save as provided by any rules that may be made under sub-section (*1*), the sender shall not be entitled to recall a postal article in course of transmission by post.

Transmission by post of anything injurious prohibited.

19. (*1*) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office.

(*2*) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office.

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[1] General Acts, Vol. I.

[2] For such rules, *see* Gazette of India, 1908, Pt. I, p. 731

(*Chapter V.—Conditions of Transmission of Postal Articles.*)

Transmission by post of anything indecent, etc., prohibited.

20. No person shall send by post—

(*a*) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or

(*b*) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

Power to make rules as to transmission by post of postal articles.

21. (*1*) The Governor General in Council may make rules[1] as to the transmission by post of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the granting receipts for, and the granting and obtaining certificates of posting and delivery of, postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates ; and

(*b*) regulate covers, form, dimensions, maximum weight and enclosures, and the use of postal articles, other than letters, for making communications.

(*3*) Postal articles shall be posted and delivered at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to postpone despatch or delivery of certain postal articles.

22. (*1*) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels, or any of them, such packets or parcels, or any of them, may, subject to such rules[2] as the Governor General in Council may make in this behalf, be detained in the Post Office so long as may be necessary.

(*2*) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Post Office for that purpose.

Power to deal with postal articles posted in contravention of Act.

23. (*1*) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or

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[1] For rules as to transmission of human or other viscera, *see* Gazette of India, 1908, Pt. I, p. 731.

For rules as to the conditions upon which cultures or other articles known or believed to contain the living germs of plague may be transmitted by inland post to a Government laboratory or to a person specially permitted to receive them, *see* Gazette of India, 1908, Pt. I, p. 731.

[2] For rules as to detention and disposal of undelivered postal articles, *see* Gazette of India, 1908, Pt. I, pp. 731, 891.

forwarded to destination, in each case charged with such additional postage (if any) as the Governor General in Council may, by rule, direct.

(*2*) Any officer in charge of a post office or authorized by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of section 21 or of any of the provisions of this Act relating to postage.

(*3*) Notwithstanding anything in sub-section (*1*)—

(*a*) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed; and

(*b*) any postal article sent by post in contravention of the provisions of section 20 may, under the authority of the Post Master General, be destroyed.

Power to deal with postal articles containing goods contraband or liable to duty.

24. Where a postal article, suspected to contain any contraband goods or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article:

Provided, first, that, if the Director General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent:

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post Master General:

Provided, thirdly, that nothing in this section shall prevent the detention of parcels received by post from any place beyond the limits of British India, at the customs-port or other place at which they are received and the opening of parcels so received by the customs-authorities for the purpose of levying any duty of customs.

Power to intercept notified goods during transmission by post.

25. Where a notification has been published under section 19 of the Sea Customs Act, 1878, [1] in respect of any goods of any specified description, any officer of the Post Office empowered in this behalf by the Governor General in Council may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver all such goods found to such officer as the Governor General in Council may appoint [2] in this behalf, and such goods may be disposed of in such manner as the Governor General in Council may direct. VIII of 1878.

Power to intercept postal articles for public good.

26. (*1*) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the Governor General in Council, or a Local Government, or any officer specially authorized in this behalf by the Governor General in Council, may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be delivered to the Government or to an officer thereof mentioned in the order, to be disposed of in such manner as the Governor General in Council may direct.

(*2*) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (*1*) was in the interest of the public safety or tranquillity, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to deal with postal articles from abroad bearing fictitious or previously used stamps.

27. (*1*) Where a postal article is received by post from any place beyond the limits of British India—

(*a*) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp, or

(*b*) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

the officer in charge of the post office at which the postal article is received, shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(*2*) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to redeliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp,

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[1] General Acts, Vol. II.

[2] For example of a notification appointing officers in respect of opium exported to or imported from Burma, *see* Gazette of India, 1901, Pt. I, p. 753; Gen. R. and O.; for other similar notifications for Burma, *see* Burma Gazette, 1905, Pt. II., p. 453.

or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(*3*) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the postal article or portion thereof as required by sub-section (*2*), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Governor General in Council may direct.

Explanation.—For the purposes of this section, the expression "postage stamp" includes any postage stamp for denoting any rate or duty of postage of any part of Her Majesty's dominions or of any Native State or foreign country.

CHAPTER VI.

REGISTRATION, INSURANCE AND VALUE-PAYABLE POST.[1]

Registration of postal articles.

28. The sender of a postal article may, subject to the other provisions of this Act, have the article registered at the post office at which it is posted, and require a receipt therefor; and the Governor General in Council may, by notification in the Gazette of India, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

29. (*1*) The Governor General in Council may make rules as to the registration of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare in what cases registration shall be required;

(*b*) prescribe the manner in which the fees for registration shall be paid; and

(*c*) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(*3*) Postal articles made over to the post office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Director General may, by order, from time to time appoint.

Insurance of postal articles.

30. The Governor General in Council may, by notification in the Gazette of India direct—

(*a*) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against

[1] For rules *see* Gazette of India, 1908, Pt. I, p. 731.

the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it; and

(*b*) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

Power to require insurance of postal articles.

31. The Governor General in Council may, by notification in the Gazette of India, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification:

Provided that the levy of such special fee as aforesaid shall not impose any liability upon the Secretary of State for India in Council in respect of the postal article.

Power to make rules as to insurance.

32. (*1*) The Governor General in Council may make rules[1] as to the insurance of postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be insured under section 30;

(*b*) fix the limit of the amount for which postal articles may be insured; and

(*c*) prescribe the manner in which the fees for insurance shall be paid.

(*3*) Postal articles made over to the Post Office for the purpose of being insured shall be delivered, when insured, at such places and times and in such manner as the Director General may, by order, from time to time appoint.

Liability in respect of postal articles insured.

33. Subject to such conditions and restrictions as the Governor General in Council may, by rule, prescribe, the Secretary of State for India in Council shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the loss of the postal article or its contents, or for any damage caused to it in course of transmission by post:

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

Transmission by post of value-payable postal articles.

34. The Governor General in Council may, by notification in the Gazette of India, direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article

[1] For notification prescribing rules as to insurance of postal articles, and value-payable postal articles, *see* Gazette of India, 1908, Pt. I., p. 731.

shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender:

Provided that the Secretary of State for India in Council shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Postal articles sent in accordance with the provisions of this section may be described as "value-payable" postal articles.

Power to make rules as to value-payable postal articles.

35. (*1*) The Governor General in Council may make rules[1] as to the transmission by post of value-payable postal articles.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be sent as value-payable postal articles;

(*b*) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bonâ fide* order received by him;

(*c*) limit the value to be recovered on the delivery of any value-payable postal article; and

(*d*) prescribe the form of declaration to be made by the senders of value-payable postal articles, and the time and manner of the payment of fees.

(*3*) Postal articles shall be made over to the Post Office for the purpose of being sent as "value-payable" and shall be delivered, when so sent, at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to give effect to arrangements with other countries.

36. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the transmission by post of registered, insured or value-payable postal articles between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules[2] to give effect to such arrangements.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the form of declaration to be made by the senders of such postal articles as aforesaid; and

(*b*) the fees to be charged in respect thereof.

[1] For notification prescribing rules as to value-payable postal articles, *see* Gazette of India, 1909, Pt. I, p. 731.

[2] For rules as to acknowledgments of registered postal articles addressed to a country belonging to the Universal Postal Union, *see* Gazette of India, 1908, Pt. I, p. 731.

CHAPTER VII.

UNDELIVERED POSTAL ARTICLES.

Power to make rules as to disposal of undelivered postal articles.

37. (*1*) The Governor General in Council may make rules [1] as to the disposal of postal articles which for any reason cannot be delivered (hereinafter referred to as "undelivered postal articles").

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the period during which undelivered postal articles at a post office shall remain in that office; and

(*b*) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

(*3*) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted, for return to the sender, or sent to the office of the Post Master General.

Disposal of undelivered postal articles at office of Post Master General.

38. (*1*) Every postal article received at the office of the Post Master General under sub-section (*3*) of section 37 shall be dealt with as follows:—

(*a*) if practicable, it shall be redirected and forwarded by post to the addressee; or,

(*b*) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed by the Post Master General in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(*2*) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge or subject to such further charge as the Governor General in Council may, by rule, direct.

Final disposal of undelivered postal articles.

39. Undelivered postal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Post Master General for such further period (if any), and shall be dealt with in such manner, as the Governor General in Council may, by rule, direct:

Provided that—

(*a*) letters and postcards shall be destroyed;

(*b*) money or saleable property, not being of a perishable nature, found in any undelivered postal article, shall be detained for a period of

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[1] For rules as to disposal of undelivered postal articles, *see* Gazette of India, 1908, Pt. I pp. 731, 891.

one year in the office of the Post Master General, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Post Office, and, if saleable property, be sold, the sale-proceeds being credited to the Post Office.

CHAPTER VIII.

SHIP LETTERS.

Duty of master of ship, departing from any port in British India and not being a mail ship, to convey mail bags.

40. The master of a ship, not being a mail ship, about to depart from any port in British India to any port within, or any port or place beyond, British India, shall receive on board any mail bag tendered to him by any officer of the Post Office for conveyance, granting a receipt therefor in such form as the Governor General in Council may, by rule, prescribe, and shall, without delay, deliver the same at the port or place of destination.

Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

41. (*1*) The master of a ship arriving at any port in British India shall, without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the Governor General in Council by section 4, to be delivered either at the post office at that port or to some officer of the Post Office authorized in this behalf by the Post Master General.

(*2*) If there is on board any postal article or mail bag which is directed to any other place within British India and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from all further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The Governor General in Council may, by notification in the Gazette of India, declare what gratuities [1] shall be allowed to masters of ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the Post Office; and the master of a ship, not being a mail ship, about to leave any port in British India as aforesaid shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

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[1] For such notification, *see* Gazette of India, 1908, Pt. I, p. 731.

CHAPTER IX.

MONEY ORDERS.

Power to maintain money order system and to make rules as to remittances thereby.

43. (*1*) The Governor General in Council may provide for the remitting of small sums of money through the Post Office by means of money orders, and may make rules[1] as to such money orders.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the limit of amount for which money orders may be issued ;

(*b*) the period during which money orders shall remain current ; and

(*c*) the rates of commission or the fees to be charged on money orders or in respect thereof.

Power for remitter to recall money order or alter name of payee.

44. (*1*) Subject to such conditions as the Governor General in Council may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the Post Office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

(*2*) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

Power to provide for the issue of postal orders.

45. The Governor General in Council may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid and cancelled :

Provided that no such order shall be issued for an amount in excess of ten rupees.

Power to give effect to arrangements with other countries.

46. (*1*) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the issue and payment through the Post Office of money orders between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.[2]

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[1] For rules as regards postal money orders, *see* Gazette of India, 1908, Pt. I, p. 731.

[2] For rules giving effect to arrangements in force for the issue and payment of Foreign money orders *see ibid.*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the manner in which, and the conditions subject to which, such orders may be issued and paid in British India ; and

(*b*) the rates of commission to be charged thereon.

Recover money order paid to the wrong person.

47. If any person, without reasonable excuse the burden of proving which shall lie on him, neglects or refuses to refund—

(*a*) any amount paid to him in respect of a money order by an officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or

(*b*) the amount of a money order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the Post Office authorized by the Post Master General in this behalf from the person so neglecting or refusing as if it were an arrear of land-revenue due from him.[1]

Exemption from liability in respect of money orders.

48. No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of—

(*a*) anything done under any rules made by the Governor General in Council under this Chapter ; or

(*b*) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee ; or

(*c*) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Post Office, or for any other cause whatsoever other than the fraud or wilful act or default of such officer ; or

(*d*) any wrong payment of a money order after the expiration of one year from the date of the issue of the order.

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[1] *See* the Revenue Recovery Act, 1890 (I of 1890), General Acts, Vol. IV.

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences by Officers of the Post Office.

Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post,—

(*a*) is in a state of intoxication while so employed, or

(*b*) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or

(*c*) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or

(*d*) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

Penalty for voluntary withdrawal from duty, without permission or notice of person employed to carry or deliver mail bags or postal articles.

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

51. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has *not* visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

52. Whoever, being an officer of the Post Office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for opening, detaining or delaying

53. Whoever, being an officer of the Post Office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmission by post, or wilfully detains or delays, or causes or suffers to be

detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both : postal articles.

Provided that nothing in this section shall extend to the opening, detaining or delaying of any postal article under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court.

Penalty for fraud in connection with official marks and for receipt of excess postage.

54. Whoever, being an officer of the Post Office,—

(*a*) fraudulently puts any wrong official mark on a postal article, or

(*b*) fraudulently alters, removes or causes to disappear any official mark which is on a postal article, or,

(*c*) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently preparing, altering, secreting or destroying Post Office documents.

55. Whoever, being an officer of the Post Office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently sending unpaid postal articles.

56. Whoever, being an officer of the Post Office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Punishment of offences committed in India outside British India.

57. (*1*) Whoever, being an officer of the Post Office employed in any place in India beyond the limits of British India in which posts are established by the Governor General in Council, or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the offence was committed by any Court or officer duly empowered by the Governor General in Council to take cognizance of offences committed in that place, or in any part of British India by any Court of competent jurisdiction as if the offence had been committed in that part.

X of 1898. (*2*) The provisions of section 188 of the Code of Criminal Procedure, 1898,[1] shall not apply to any offence referred to in this section.

[1] *Supra.*

Other Offences.

Penalty for contravention of section 4.

58. (*1*) Whoever—

(*a*) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the Governor General in Council by section 4, or

(*b*) performs any service incidental to conveying, otherwise than by post, any letter within the exclusive privilege aforesaid, or

(*c*) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or

(*d*) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

shall be punishable with fine which may extend to fifty rupees for every such letter.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for contravention of section 5.

59. (*1*) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

(*2*) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for breach of rules under section 16.

60. Whoever, being appointed to sell postage stamps,—

(*a*) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (*3*), clause (*a*), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; or

(*b*) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

Penalty for contravention of section 19 or 20.

61. (*1*) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) The detention in the Post Office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or

section 20, shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

Penalty for defiling or injuring post office letter-boxes.

62. Whoever places in or against any letter-box provided by the Post Office for the reception of postal articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

Penalty for affixing without authority thing to, or painting, tarring or disfiguring, post office or post office letter-box.

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars or in any way disfigures any post office or any letter-box provided by the Post Office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for making false declaration.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for master of ship failing to comply with the provisions of section 40 or 41.

65. Whoever, being the master of a ship,—

(*a*) fails to comply with the provisions of section 40, or,

(*b*) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

shall be punishable with fine which may extend to one thousand rupees.

Penalty for detention of letters on board vessel arriving in port.

66. (*1*) Whoever, being either the master of a ship arriving at any port in British India or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the Governor General in Council by section 4, shall be punishable with fine which may extend to fifty rupees for every such postal article as aforesaid.

(2) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the Post Office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Penalty for detaining mails or opening mail bag.

67. Whoever, except under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees,

Provided that nothing in this section shall prevent the detention of an officer of the Post Office carrying the mails or any postal article in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898,[1] or any other law for the time being in force. V of 1898.

Penalty for retaining postal articles wrongly delivered or mail bags.

68. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or, when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for unlawfully diverting letters.

69. Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

General.

Penalty for abetting, or attempting to commit, offences under Act.

70. Whoever abets the commission of any offence punishable under the Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Property in case of offences to be

71. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post, it shall be sufficient, for the purpose of the charge,

[1] *Supra.*

to describe the mail bag or postal article as being the property of the Post Office, and it shall not be necessary to prove that the mail bag or postal article was of any value. Mail bag or postal article laid in the Post Office.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (*a*) and (*b*), 55, 56, 58, 59, 61, 64, 65, 66 and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a Post Master General. Authority for prosecutions under certain sections of Act.

CHAPTER XI.

SUPPLEMENTAL.

73. (*1*) The Governor General in Council may make rules for the management of any zamindari or other district post. Zamindari and other district posts.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts and to the persons employed in connection therewith.

74. (*1*) In addition to the powers hereinbefore conferred, the Governor General in Council may make rules to carry out any of the purposes and objects of this Act. General power to make rules and provisions as to rules under Act.

(*2*) In making any rule under this Act, the Governor General in Council may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(*3*) All rules made by the Governor General in Council under this Act shall be published in the Gazette of India and, on such publication, shall have effect as if enacted by this Act.

75. The Governor General in Council may, by notification in the Gazette of India, authorize, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the Governor General in Council by this Act, other than a power to make rules. Delegation of powers, other than rule-making powers, to Director General.

76. The enactments mentioned in the second schedule are repealed to the extent specified in the fourth column thereof. Repeal.

77. Nothing in this Act shall derogate from or affect the provisions of the East India Company Act, 1780[1], or any enactment amending or extending the same. Saving.

21 Geo. 3, c. 70.

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[1] Coll. Stat., Vol. I.

(*Chapter XI.—The First Schedule.—Inland Postage Rates. The Second Schedule.—Enactments Repealed.*)

THE FIRST SCHEDULE.

INDIAN POSTAGE RATES.

(*See section 7.*)

LETTERS.

For a weight not exceeding half a tola	Half an anna.
For a weight not exceeding one tola	One anna.
For every tola or fraction thereof exceeding one tola .	One anna.

POSTCARDS.

Single	Quarter of an anna.
Reply	Half an anna.

BOOK, PATTERN AND SAMPLE PACKETS.

For every ten tolas or fraction thereof	Half an anna.

NEWSPAPERS.

For a weight not exceeding three tolas	Quarter of an anna.

REGISTERED NEWSPAPERS.

For a weight not exceeding twenty tolas	Half an anna.
For every twenty tolas or fraction thereof exceeding twenty tolas	Half an anna.

PARCELS.

For a weight not exceeding twenty tolas	Two annas.
For a weight not exceeding forty tolas	Four annas.
For every additional forty tolas or fraction thereof exceeding forty tolas	Four annas.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 76.*)

Year.	No.	Short title.	Extent of repeal.
1866	XIV	The Indian Post Office Act, 1866 .	The whole.
1882	III	The Seditious Publications Act, 1882.	So much as is unrepealed.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Section 7.
1896	XVI	The Indian Post Office Act (1866) Amendment Act, 1896.	The whole.
[1]1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XVI of 1896.

[1] General Acts, Vol. IV.

ACT No. IX OF 1898.[1]

[*12th August 1898.*]

An Act to make better provision for the regulation of the importation of live-stock.

WHEREAS it is expedient to make better provision for the regulation of the importation of live-stock which is liable to be affected by infectious or contagious disorders; It is hereby enacted as follows:—

Short title, local extent and commencement.

1. (*1*) This Act may be called the Live-stock Importation Act, 1898.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "infectious or contagious disorders" includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the Governor General in Council by notification in the Gazette of India; and

(*b*) "live-stock" includes horses, kine, camels, sheep and any other animal which may be specified by the Governor General in Council by notification in the Gazette of India.

Power to regulate importation of live-stock.

3. (*1*) The Governor General in Council may, by notification in the Gazette of India, regulate, restrict or prohibit, in such manner and to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(*2*) A notification under sub-section (*1*) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878,[2] and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same;

VIII of 1878.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 282; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 362 and 364.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule. Bur. Code, and in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, Ben. Code.

[2] General Acts, Vol. II.

and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power for Local Government to make rules.

4. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(*2*) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection to persons acting under Act.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

ACT No. X OF 1898.[1]

[*2nd September 1898.*]

An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,[2] and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July, 1878; It is hereby enacted as follows :— 11 & 12 Vict., c. 21.

Short title and commencement.

1. (*1*) This Act may be called the Indian Insolvency Rules Act, 1898; and

(*2*) It shall come into force at once.

Extent of power to make rules under the Indian Insolvency Act, 1848.

2. The power to make rules[3] conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,[2] shall be deemed to include, and to have included, a power to make rules for the audit of the accounts of the official assignee, and for paying for the costs of such audit and for paying the reasonable costs, charges and allowances of the official assignee, out of the funds in the hands of the official assignee. 11 & 12 Vict., c. 21.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 275; for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 295 and 336.

[2] For rules as to practice and procedure made by the High Court, Madras, under this Act *see* Fort St. George Gazette, 1905, Supplement dated 2nd May 1905.

[3] Coll. Stat., Vol. I.

Confirmation of rules made on the 31st July, 1878, by the Bombay High Court.

3. The rules made, in exercise of the aforesaid power, by the High Court of Judicature at Bombay on the thirty-first day of July 1878, are hereby confirmed.

Official assignee's allowance for pension.

4. The Chief Justice of the said Court may, with the previous sanction of the Governor General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service.

ACT No. I OF 1899.[1]

[*13th January 1899.*]

An Act to amend the Indian Marine Act, 1887.

XIV of 1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887[2] (hereinafter referred to as "the said Act"); It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Marine Act (1887) Amendment Act, 1899; and

(*2*) It shall come into force at once.

Amendment of section 2, sub-section (*1*), clause (*a*), Act XIV, 1887.

2. In section 2, sub-section (*1*), clause (*a*), of the said Act, for the words "the Indian Marine Service" the words "the Royal Indian Marine Service (herein referred to as 'the Indian Marine Service' or 'Her Majesty's Indian Marine Service')" shall be substituted.

Substitution of new clauses for clauses (*b*), (*c*) and (*d*), section 2, sub-section (*1*), Act XIV, 1887.

3. In the same section and sub-section of the said Act, for clauses (*b*), (*c*) and (*d*) the following clauses shall be substituted, namely:—

(*b*) "gazetted officer" means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
Lieutenant,	Engineer, or
Sub-Lieutenant,	Assistant Engineer:

(*c*) "warrant-officer" means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant Surgeon,	Carpenter,
Gunner,	Clerk, or
	Engine-driver, first class:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 345; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 370, and *ibid*, 1899, Pt. VI, p. 3.

[2] General Acts, Vol. IV.

(*d*) "petty officer" means a person who is employed in the Indian Marine Service as —

General Mess Steward.	Carpenter's Crew, first class,
Chief Syrang of Lascars, first class,	Carpenter's Crew, second class,
Chief Syrang of Lascars, second class,	Plumber.
Syrang of Lascars, first class,	General Mess Butler, first class,
Syrang of Lascars, second class,	General Mess Butler, second class,
Sukkani,	Cook, first class,
Tindal of Lascars, first class,	Cook, second class,
Tindal of Lascars, second class,	Ship's Steward,
Engine-driver, second class,	Tide-watcher,
Syrang of Stokers, first class,	Kassab, first class,
Syrang of Stokers, second class,	Kassab, second class,
Tindal of Stokers, first class,	Pilot,
Tindal of Stokers, second class,	Chart-room Attendant,
Carpenter's Mate, first class,	Leadsman, or
Carpenter's Mate, second class.	Interpreter,

Substitution of new sub-sections for sub-sections (*1*), (*2*) and (*3*), section 53, Act XIV, 1887.

4. (*1*) In section 53 of the said Act, for sub-sections (*1*), (*2*) and (*3*) the following sub-sections shall be substituted, namely :—

"53. (*1*) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

(*2*) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

(*3*) Except in the case of an Indian Marine Court convened under section 52, sub-section (*2*), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander."

(*2*) To the said section the following sub-sections shall be added, namely :—

"(*10*) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

(*11*) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate General's Department.

(*12*) The authority convening an Indian Marine Court shall also appoint a person as Provost-Marshal, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority."

Addition of new section after section 70, Act XIV, 1887.

5. After section 70 of the said Act the following shall be added, namely:—

"*Supplemental.*

Provision in case of wreck, loss, destruction or capture of Indian Marine vessel.

"70A. When an Indian Marine vessel is wrecked, lost, destroyed or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction or capture thereof."

THE INDIAN STAMP ACT, 1899.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

3. Instruments chargeable with duty.
4. Several instruments used in single transaction of sale, mortgage or settlement.
5. Instruments relating to several distinct matters.
6. Instruments coming within several descriptions in Schedule I.
7. Policies of sea-insurance.
8. Bonds, debentures or other securities issued on loans under Act XI, 1879.
9. Power to reduce, remit or compound duties.

B.—Of Stamps and the mode of using them.

10. Duties how to be paid.
11. Use of adhesive stamps.
12. Cancellation of adhesive stamps.
13. Instruments stamped with impressed stamps how to be written.
14. Only one instrument to be on same stamp.
15. Instruments written contrary to section 13 or 14 deemed unstamped.
16. Denoting duty.

C.—Of the time of stamping Instruments.

17. Instruments executed in British India.
18. Instruments other than bills, cheques and notes executed out of British India.
19. Bills, cheques and notes drawn out of British India.

D.—Of Valuations for Duty.

20. Conversion of amount expressed in foreign currencies.
21. Stock and marketable securities how to be valued.
22. Effect of statement of rate of exchange or average price.
23. Instruments reserving interest.
23A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.
24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.
25. Valuation in case of annuity, etc.
26. Stamp where value of subject-matter is indeterminate.
27. Facts affecting duty to be set forth in instrument.
28. Direction as to duty in case of certain conveyances.

E.—Duty by whom payable.

29. Duties by whom payable.
30. Obligation to give receipt in certain cases.

CHAPTER III.

Adjudication as to Stamps.

31. Adjudication as to proper stamp.
32. Certificate by Collector.

CHAPTER IV.

Instruments not duly stamped.

33. Examination and impounding of instruments.
34. Special provision as to unstamped receipts.

SECTIONS.

35. Instruments not duly stamped inadmissible in evidence, etc.
36. Admission of instrument, where not to be questioned.
37. Admission of improperly stamped instruments.
38. Instruments impounded, how dealt with.
39. Collector's power to refund penalty paid under section 38, sub-section (*1*).
40. Collector's power to stamp instruments impounded.
41. Instruments unduly stamped by accident.
42. Endorsement of instruments on which duty has been paid under sections 35, 40 or 41.
43. Prosecution for offence against Stamp-law.
44. Persons paying duty or penalty may recover same in certain cases.
45. Power to Revenue-authority to refund penalty or excess duty in certain cases.
46. Non-liability for loss of instruments sent under section 38.
47. Power of payer to stamp bills, promissory notes and cheques received by him unstamped.
48. Recovery of duties and penalties.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

49. Allowance for spoiled stamps.
50. Application for relief under section 49 when to be made.
51. Allowance in case of printed forms no longer required by corporations.
52. Allowance for misused stamps.
53. Allowance for spoiled or misused stamps how to be made.
54. Allowance for stamps not required for use.
55. Allowance on renewal of certain debentures.

CHAPTER VI.

REFERENCE AND REVISION.

56. Control of, and statement of case to, Chief Controlling Revenue-authority.
57. Statement of case by Chief Controlling Revenue-authority to High Court or Chief Court.
58. Power of High Court or Chief Court to call for further particulars as to case stated.
59. Procedure in disposing of case stated.
60. Statement of case by other Courts to High Court or Chief Court.
61. Revision of certain decisions of Courts regarding the sufficiency of stamps.

CHAPTER VII.

Criminal Offences and Procedure.

62. Penalty for executing, etc., instrument not duly stamped.
63. Penalty for failure to cancel adhesive stamp.
64. Penalty for omission to comply with provisions of section 27.
65. Penalty for refusal to give receipt, and for devices to evade duty on receipt
66. Penalty for not making out policy, or making one not duly stamped.
67. Penalty for not drawing full number of bills or marine policies purporting to be in sets.
68. Penalty for post-dating bills, and for other devices to defraud the revenue.
69. Penalty for breach of rule relating to sale of stamps and for unauthorized sale.
70. Institution and conduct of prosecutions.
71. Jurisdiction of Magistrates.
72. Place of trial.

CHAPTER VIII.

Supplemental Provisions.

73. Books, etc., to be open to inspection.
74. Powers to make rules relating to sale of stamps.
75. Power to make rules generally to carry out Act.
76. Publication of rules.
77. Saving as to court-fees.
78. Act to be translated and sold cheaply.
79. Repeal.

SCHEDULE I.—Stamp-duty on Instruments.

SCHEDULE II.—Enactments repealed.

ACT No. II OF 1899.[1]

[*27th January 1899.*]

An Act to consolidate and amend the law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

(1). *1* This Act may be called the Indian Stamp Act, 1899.

(*2*) It extends to the whole of British India, inclusive of Upper Burma,[2] British Baluchistan, the Santhal Parganas, and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of July 1899.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"Banker."

(*1*) "banker" includes a bank and any person acting as a banker:

"Bill of exchange."

(*2*) "bill of exchange" means a bill of exchange as defined by the [1]Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money:

XXXVI of 1881.

For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 175; for report of the Select Committee, *see ibid*, 1898, Pt. V, p. 231; and for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 231; *ibid*, 1898, Pt. VI, pp. 10 and 278; and *ibid*, 1899, Pt. VI, p. 5.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, Ben. Code.

It has been declared to be in force in the sub-division of Angul by notification under s. 5 of the Angul District Regulation, 1894 (I of 1894), Ben. Code—*see* Calcutta Gazette, 1899, Pt. I, p. 1064.

Under s. 2 of the Assam Frontier Tracts Regulation, 1880 (II of 1880), E. B. and A. Code, it has been declared that the Act shall cease to be in force in the Garo Hills, the Khasi and Jaintia Hills and the Naga Hills, the North Cachar Subdivision of the Cachar District, the Mikir Hills Tract and the Dibrugarh Frontier Tract. Under ss. 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), General Acts, Vol. II, the Act was extended to the places abovementioned with the proviso that it shall not apply to persons being natives of these areas who are assessed to house-tax instead of land-revenue, *see* Gazette of India, 1903, Pt. I, p. 175. Similarly it has been declared that the Act shall cease to be in force in the Lushai Hills—*see* Gazette of India, 1904, Pt. I, p. 93; and under ss. 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), General Acts, Vol. II, it was extended to the Lushai Hills with the proviso that it shall not apply to natives of the district except in such places and cases as may be withdrawn from the operation of the proviso—*see* Gazette of India, 1904, Pt. I, p. 913, and Assam Gazette, 1904, Pt. II, p. 787.

[2] This Act is to be deemed not to extend nor to have ever extended to the Hill District of Arakan—*see* the Arakan Hill District Laws Regulation, 1901 (II of 1901).

[3] General Acts, Vol. III.

"Bill of exchange payable on demand."

(3) "bill of exchange payable on demand" includes—

(*a*) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(*b*) an order for the payment of any sum of money weekly, monthly or at any other stated periods; and

(*c*) a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn:

"Bill of lading."

(4) "bill of lading" includes a "through bill of lading," but does not include a mate's receipt:

"Bond."

(5) "bond" includes—

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(*b*) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(*c*) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

"Chargeable."

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed:

Cheque."

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand:

"Chief Controlling Revenue-authority."

(8) "Chief Controlling Revenue-authority" means—

(*a*) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the [1] North-Western Provinces and the [1] Chief Commissioner of Oudh—the Board of Revenue;

[1] The reference to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh should now be construed as referring to "the Lieutenant-Governor of the United Provinces of Agra and Oudh"—*see* the United Provinces (Designation) Act, 1929 (VII of 1902), *infra*.

(*b*) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner ;

(*c*) in Sindh—the Commissioner ;

(*d*) in [1] Punjab and Burma, including Upper Burma—the Financial Commissioner ; and

(*e*) elsewhere—the [1] Local Government or such officer as the Local Government may, by notification [2] in the official Gazette, appoint in this behalf :

(*9*) "Collector"— "Collector."

(*a*) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively and, without those limits, the Collector of a district ; and

(*b*) includes a Deputy Commissioner and any officer whom the Local Government may, by notification [3] in the official Gazette, appoint in this behalf :

(*10*) "conveyance" includes a conveyance on sale and every instrument by which property, whether moveable or immoveable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I : "Conveyance."

(*11*) "duly stamped" as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in British India : "Duly stamped."

(*12*) "executed" and "execution" used with reference to instruments, mean "signed" and "signature :" "Executed" and "execution."

(*13*) "impressed stamp" includes— "Impressed stamp."

(*a*) labels affixed and impressed by the proper officer, and

(*b*) stamps embossed or engraved on stamped paper :

(*14*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded : "Instrument."

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[1] In the North-West Frontier Province, for "Punjab" read "North-West Frontier Province," for "Financial Commissioner" read "Revenue Commissioner," for "Local Government" read "Chief Commissioner," and for "official Gazette" read "Gazette of India"—*see* s. 6 (*1*) (*a*), (*e*), (*b*) and (*g*), respectively, of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[2] For instance of such notification issued in British Baluchistan, *see* Gazette of India, 1899, Pt. II, p. 920 ; in Ajmer-Merwara, *see* Gazette of India, 1889, Pt. II, 506 ; in Burma, *see* Burma Gazette, 1905, Pt. I, p. 626 ; in Madras, *see* Mad. R. and O.

[3] For notification by the Chief Commissioner of Ajmer-Merwara, declaring that "Collector" includes Assistant Commissioners of the Province, *see* Gazette of India, 1902, Pt. II, p. 501.

"Instrument of partition."

(*15*) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition :

"Lease."

(*16*) "lease" means a lease of immoveable property, and includes also—

(*a*) a patta ;

(*b*) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immoveable property ;

(*c*) any instrument by which tolls of any description are let ;

(*d*) any writing on an application for a lease intended to signify that the application is granted :

"Marketable security."

[1][(*16A*) "marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom :]

"Mortgage-deed."

(*17*) "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property :

"Paper."

(*18*) "paper" includes vellum, parchment or any other material on which an instrument may be written :

Policy of insurance."

(*19*) "policy of insurance" includes—

(*a*) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

(*b*) a life-policy and any policy insuring any person against accident or sickness, and any other personal insurance ;

* * * *[2]

"Policy of sea-insurance" or "sea-policy."

(*20*) "policy of sea-insurance" or "sea-policy"—

(*a*) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or

[1] Cl. (16A) was inserted by s. 2 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

[2] Sub-cl. (*c*) and the word 'and" prefixed thereto were repealed by s. 2 of the Indian Stamp (Amendment Act, 1906 (V of 1906), General Acts, Vol. VI. Sub-clause (*c*) was as follows :—

(*c*) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months."

furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel; and

(*b*) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (*a*), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance:

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance:

(*21*) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it: "Power-of-attorney."

(*22*) "promissory note" means a promissory note as defined by the [1]Negotiable Instruments Act, 1881; "Promissory note." XXVI of

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen:

(*23*) "receipt" includes any note, memorandum or writing— "Receipt."

(*a*) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(*b*) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(*c*) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(*d*) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person: and

(*24*) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property made— "Settlement."

(*a*) in consideration of marriage,

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[1]General Acts, Vol. III.

(*b*) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(*c*) for any religious or charitable purpose;

and includes an agreement in writing to make such a disposition [1][and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition].

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments chargeable with duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

(*a*) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July 1899;

(*b*) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India; and

(*c*) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in that schedule, which not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India and is received in British India:

Provided that no duty shall be chargeable in respect of—

(*1*) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(*2*) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or

[1] These words were added by s. 2 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

57 & 58 Vict., c. 60.

X of 1841.

vessel registered under the Merchant Shipping Act, 1894,[1] or under Act XIX of 1838,[2] or the Indian Registration of Ships Act, 1841,[3] as amended by subsequent Acts[4].

Several instruments used in single transaction of sale, mortgage or settlement.

4. (*1*) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(*2*) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (*1*), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shal be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Policies of sea-insurance.

7. (*1*) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894),[4] shall be valid unless the same is expressed in a sea-policy.

57 & 58 Vict., c.

(*2*) No sea-policy made for time shall be made for any time exceeding twelve months.

(*3*) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

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[1] Coll. Stat., Vol. II.
[2] Bom. Code.
[3] General Acts, Vol. I.
[4] The Indian Registration of Ships Act (1841) Amendment Act, 1850 (XI of 1850), General Acts, Vol. I.

(*4*) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonds, debentures or other securities issued on loans under Act XI, 1879.

8. (*1*) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the [1]Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of eight annas per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise. XI of 1879.

(*2*) The provisions of sub-section (*1*) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not :

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March 1897, when such duty has not already been paid or remitted by order issued by the Governor General in Council.

(*3*) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit or compound duties.

9. The Governor General in Council may, by rule or order published in the Gazette of India,—

[2](*a*) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any

[1] General Acts, Vol. III.

[2] For the general notification reducing and remitting such duties, *see* Gazette of India, 1899, Pt. I, p. 79, Gen. R. and O., and Gazette of India, 1908, Pt. I, p p. 203, 522.

For notification remitting the duty on apprenticeship-deeds in the case of distributors or compositors bound apprentice to the Superintendent of Government Printing, India, *see* Gazette of India, 1899, Pt. I, p. 1068.

For notification reducing the duties chargeable on certain kabuliyats in the Bankura District, Lower Bengal, see Notification No. 44-S. R., Gazette of India, 1900, Pt. I, p. 88; *ibid*, p. 576.

instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

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For notification reducing the duties chargeable on certain promissory notes when executed by an agriculturist and attested at the time of execution by a village-registrar under s. 57 of the Dekkhan Agriculturists' Relief Act, 1879 (XVII of 1879), Bom. Code, to those chargeable under Art. 13 (*a*) and (*b*) of Sch. I, *see* Gazette of India, 1904, Pt. I, p. 160.

For notification remitting the duty chargeable on any instrument of transfer of shares registered in a branch register in the United Kingdom under the Indian Companies (Branch Registers) Act (1900, IV of 1900), *infra*, which has paid stamp-duty leviable thereon in accordance with the law for the time being in force in the United Kingdom, *see* Gazette of India, 1900, Pt. I, p. 100.

For notification remitting the duties on all agreements between creditors and debtors to refer their claims to arbitration, made in the Central Provinces in the conciliation proceedings approved by the Local Administration, and on awards made on such agreements, *see* Gazette of India, 1903, Pt. I, p. 293.

For notification remitting the duty on agreements or memoranda of agreement for the cultivation of the hemp plant made by cultivators in the Madras Presidency, *see* Notification No. 226-S. R., dated the 11th January 1901—Gazette of India, 1901, Pt. I, p. 32.

For notification remitting the duty on general or special authorities in writing, authorizing agents to appear and plead under section 23 (*2*) of the North-Western Provinces and Oudh Village Courts Act, 1892 (U. P. Act III of 1892), U. P. Code, *see* Notification No. 5650-S. R., dated 18th July 1901—Gazette of India, 1901, Pt. I, p. 451.

For notification remitting the duty chargeable on certain mortgage-deeds, executed for the purpose of giving effect to (*1*) s. 9 (*2*) of the Punjab Alienation of Land Act, 1900 (XIII of 1900), P. and N. W. Code, *see* Gazette of India, 1901, Pt. I, p. 1001, and (*2*) the same section of the Bundelkhand Alienation of Land Act, 1903 (U. P. Act II of 1903), U. P. Code, *see* Gazette of India, 1903, Pt. I, p. 537.

For notification remitting the duty chargeable on leases of fisheries granted by the Chief Commissioner of Assam, *see* Gazette of India, 1903, Pt. I, p. 989.

For notification exempting bills of lading issued by Inland Steamer Companies from the stamp-duty to which they are liable under Art. No. 14 of Sch. I of this Act, *see* Gazette of India, 1904, Pt. I, p. 38.

For notification remitting the duty chargeable on any agreement or counterpart between the owner of any "token" animal and the Government under s. 31 of the Punjab Military Transport Animals Act, 1903 (Punjab Act I of 1903), P. and N. W. Code, *see* Gazette of India, 1904, Pt. I, p. 173; Gen. R. and O.

For notification exempting from duty all instruments executed in Berar if stamped according to the law for the time being in force in Berar, *see* Gazette of India, 1904, Pt. I, p. 319; for similar notification in respect of certain other areas *see ibid*, 1908, Pt. I, p. 612.

For notification remitting the duties chargeable on written authorities to distrain referred to in s. 75 of the Oudh Rent Act, 1886 (XXII of 1886), U. P. Code, and in s. 120 (*g*) of the Agra Tenancy Act, 1901 (U. P. Act II of 1901), U. P. Code, *see ibid*, 1904, Pt. I, p. 569.

For notification reducing the duty chargeable under certain circumstances on agreements relating to the hypothecation of moveable property, *see* Gazette of India, 1905, Pt. I, p. 709.

For notification reducing the duty chargeable under clause (*b*) of Art. 41, Sch. I, *see* Gazette of India, 1903, Pt. I, p. 39.

For notification remitting the duty chargeable under Art 40, Sch. I, on mortgage-deeds executed by an officer of Government in civil or military employ for securing the repayment of an advance received by him from Government for the purpose of constructing or purchasing a dwelling-house for his own use, *see* Gazette of India, 1907, Pt. I, p. 14, for remisssion of duty under Art. 54, on deeds of reconveyance of mortgaged property executed by the Government in favour of an officer in civil or military employ on the payment of such an advance, *see ibid*, p. 679; for reduction of duty under Art. 40 (*a*) in certain cases, *see ibid*, 1908, Pt. I, p. 459.

For notification reducing the duty leviable on any trust-deed entered into in compliance with the rules in force in Bengal regulating grants-in-aid made by Government for building purposes to aided schools and colleges, *see* Gazette of India, 1908, Pt. I, p. 306.

(*b*) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B.—Of stamps and the mode of using them.

Duties how to be paid.

10. (*1*) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained; or

(*b*) when no such provision is applicable thereto, as the Governor General in Council may by rule direct.

(*2*) The rules[1] made under sub-section (*1*) may, among other matters regulate,—

(*a*) in the case of each kind of instrument—the description of stamps which may be used;

(*b*) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

(*c*) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely :—

(*a*) instruments chargeable with the duty of one anna [2][or half an anna] except part of bills of exchange payable otherwise than on demand and drawn in sets;

(*b*) bills of exchange, cheques and promissory notes drawn or made out of British India;

[3](*c*) entry as an advocate, vakil or attorney on the roll of a High Court;

(*d*) notarial acts; and

(*e*) transfers by endorsement of shares in any incorporated company or other body corporate.

Cancellation of adhesive stamps.

12. (*1*) (*a*) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again;

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[1] For rules as to the use of impressed and adhesive stamps, *see* Notification No. 3632-Exc., dated 29th June 1906—Gazette of India, 1906, Pt. I, p. 439.

[2] These words were inserted by s. 3 of the Indian Stamp Amendment Act, 1906 (V of 1906), General Acts, Vol. VI.

[3] As to the enrolment of legal practitioners in the North-West Frontier Province, *see* s. 9 of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N-W.Code.

(*b*) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(*2*) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(*3*) The person required by sub-section (*1*) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments stamped with impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Governor General in Council may by rule prescribe.

C.—Of the time of stamping instruments.

Instruments executed in British India.

17. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments other than bills, cheques and notes executed out of British India.

18. (*1*) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India.

(*2*) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of British India.

19. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same:

Provided that,—

(*a*) if, at the time any such bill of exchange, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled:

(*b*) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion of amount expressed in foreign currencies.

20. (*1*) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of British India, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

(*2*) The Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe[1] a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (*1*).

[1] For notification prescribing such rates, *see* No. 1281-S. R., dated the 17th March 1899—Gazette of India, 1899, Pt. I, p. 153; Gen. R. and O.

Stock and marketable securities, how to be valued.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

[1]**23A.** (*1*) Where an instrument (not being a promissory note or bill of exchange)—

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(*2*) A release or discharge of any such instrument shall only be chargeable with the like duty.

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

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[1] S. 23A. was added by s. 3 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904); General Acts, Vol. VI.

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(*1*) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(*3*) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument, or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if

stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient :

[1] Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(*a*) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease :

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (*1*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(*2*) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with

[1] This proviso was substituted for the first proviso by s. 4 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

The original proviso was as follows:—

"Provided that, in the case of the lease of a mine in which a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such share, for the purpose of stamp-duty, at twenty thousand rupees a year, and the whole amount of such share, whatever it may be, shall be claimable under such lease."

ad valorem duty in respect of the distinct part of the consideration therein specified.

(*3*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(*4*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(*5*) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such orginal seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(*a*) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),

[1][No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),]

[1] These words were substituted for the words and figure "No. 6 (Agreement to mortgage)" by s. 5 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

No. 13 (Bill of exchange),
No. 15 (Bond),
No. 16 (Bottomry Bond),
No. 26 (Customs Bond),
No. 27 (Debenture),
No. 32 (Further Charge),
No. 34 (Indemnity-bond),
No. 40 (Mortgage-deed),
No. 49 (Promissory-note),
No. 55 (Release),
No. 56 (Respondentia Bond),
No. 57 (Security-bond or Mortgage-deed),
No. 58 (Settlement),
No. 62 (*a*) (Transfer of shares in an incorporated company or other body corporate),
No. 62 (*b*) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),
No. 62 (*c*) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument:

[1][(*b*) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance;

(*bb*) in the case of a policy of fire-insurance—by the person issuing the policy;]

(*c*) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee:

(*d*) in the case of a counterpart of a lease—by the lessor:

(*e*) in the case of an instrument of exchange—by the parties in equal shares:

(*f*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates: and,

(*g*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property parti-

[1] These clauses were substituted for cl. (*b*) by s. 4 of the Indian Stamp (Amendment) Act 1906 (V of 1906), General Acts, Vol. VI. The original clause (*b*) was as follows:—
"(*b*) in the case of a policy of insurance—by the person effecting the insurance."

tioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation to give receipt in certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

[1] Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

Adjudication as to proper stamp.

31. (*1*) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(*2*) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

(*a*) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and

[1] This paragraph was added by s. 5 of the Indian Stamp (Amendment) Act, 1906 (V of 1906). General Acts, Vol. VI.

(*b*) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

32. (*1*) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section 31, or such a sum as, with duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(*2*) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(*3*) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and if chargeable with duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorize the Collector to endorse—

(*a*) any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(*b*) any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

(*c*) any instrument chargeable with the duty of one anna [1][or half an anna] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

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[1] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. (*1*) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(*2*) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that—

(*a*) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the [1] Code of Criminal Procedure, 1898 ; V of 1898.

(*b*) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(*3*) For the purposes of this section, in cases of doubt,—

(*a*) the Governor General in Council may determine what offices shall be deemed to be public offices ; and

(*b*) the Local Government may determine who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by

[1] *Supra.*

any such person or by any public officer, unless such instrument is duly stamped:

Provided that—

(*a*) any such instrument not being an instrument chargeable with a duty of one anna[1] [or half an anna] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(*b*) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;

(*c*) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(*d*) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the[2] Code of Criminal Procedure, 1898;

V of 1898.

(*e*) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

Admission of instrument where not to be questioned.

Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of improperly stamped instruments.

36. The Governor General in Council may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper

[1] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

[2] *Supra.*

description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments impounded how dealt with.

38. (*1*) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(*2*) In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty paid under section 38, sub-section (*1*).

39. (*1*) When a copy of an instrument is sent to the Collector under section 38, sub-section (*1*), he may, if he thinks fit, upon application made to him in this behalf or, if no application is made, with the consent of the [1]Chief Controlling Revenue-authority, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(*2*) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

Collector's power to stamp instruments impounded.

40. (*1*) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (*2*), not being an instrument chargeable with a duty of one anna [2][or half an anna] only or a bill of exchange or promissory note, he shall adopt the following procedure :—

(*a*) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be :

(*b*) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit [3][an amount not

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code, Ed. 1903, p. 546.

[2] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

[3] These words were inserted by s. 6 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravent n of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(*2*) Every certificate under clause (*a*) of sub-section (*1*) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(*3*) Where an instrument has been sent to the Collector under section 38, sub-section (*2*), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident.

41. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna [1][or half an anna] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

Endorsement of instruments on which duty has been paid under sections 35, 40 or 41.

42. (*1*) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(*2*) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it or as such person may direct:

[1] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

Provided that—

(*a*) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

(*b*) nothing in this section shall affect the [1] Code of Civil Procedure, section 144, clause 3. XIV of 1882.

Prosecution for offence against Stamp-law.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Persons paying duty or penalty may recover same in certain cases.

44. (*1*) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(*2*) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(*3*) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

45. (*1*) Where any penalty is paid under section 35 or section 40, the [2] Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

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[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), Schedule I, Order XIII, rule 9, General Acts, Vol. VI.

[2] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

(*2*) Where, in the opinion of the [1] Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability for loss of instruments sent under section 38.

46. (*1*) If any instrument sent to the Collector under section 38, sub-section (*2*), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(*2*) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of payer to stamp bills, promissory notes and cheques received by him unstamped.

47. When any bill of exchange, promissory note or cheque chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note or cheque.

Recovery of duties and penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

CHAPTER V.

Allowances for Stamps in certain Cases.

Allowance for spoiled stamps.

49. Subject to such rules as may be made by the Governor General in Council as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50,

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[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—*see* s. 6 (*1*) (*d*) of the North-West Frontier ProvinceLaw and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(*a*) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :

(*b*) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :

(*c*) in the case of bills of exchange, cheques or promissory notes—

(*1*) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(*2*) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :

(*3*) the stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee : provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note :

(*d*) the stamp is used for an instrument executed by any party thereto which—

(*1*) has been afterwards found to be absolutely void in law from the beginning :

(*2*) has been afterwards found unfit by reason of any error or mistake therein, for the purpose originally intended :

(*3*) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(*4*) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(*5*) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(*6*) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :

(*7*) is deficient in value and the transaction intended to be thereby effected had been effected by some other instrument between the same parties and bearing a stamp of not less value :

(*8*) is inadvertently and undesignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

50. The application for relief under section 49 shall be made within the following periods, that is to say,— Application for relief under section 49 when to be made.

(*1*) in the cases mentioned in clause (*d*) (*5*), within two months of the date of the instrument :

(*2*) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :

(*3*) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that,—

(*a*) when the spoiled instrument has been for sufficient reasons sent out of British India, the application may be made within six months after it has been received back in British India :

(*b*) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no longer required by corporations.

51. The [1]Chief Controlling Revenue-authority may, without limit of time, make allowance for stamped papers used for printed forms of instruments [2][by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said [2][banker,] company or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance for misused stamps.

52. (*a*) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty ; or

(*b*) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

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[1]In the North-West Frontier Province, for " Chief Controlling Revenue-authority " read " Revenue Commissioner " —*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[2] These words were inserted by s. 6 of the Indian Stamp (Amendment) Act, 1906 (Vol. 1906), General Acts, Vol. VI.

Allowance for spoiled or misused stamps how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(*a*) other stamps of the same description and value; or,

(*b*) if required and he thinks fit, stamps of any other description to the same amount in value; or,

(*c*) at his discretion, the same in value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(*a*) that such stamp or stamps were purchased by such person with a *bonâ fide* intention to use them; and

(*b*) that he has paid the full price thereof; and

(*c*) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Allowance on renewal of certain debentures.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture the value of the stamp on the original or on the new debenture whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Governor General in Council may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

(*a*) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;

(*b*) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;

(*c*) the substitution of the name of the holder at the time of renewal for the name of the original holder; and

(*d*) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI.

REFERENCE AND REVISION.

Control of, and statement of case to, Chief Controlling Revenue-authority.

56. (*1*) The powers exercisable by a Collector under Chapter IV and Chapter V [1] [and under clause (*a*) of the first proviso to section 26] shall in all cases be subject to the control of the [2]Chief Controlling Revenue-authority.

(*2*) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the [2]Chief Controlling Revenue-authority.

(*3*) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue-authority to High Court or Chief Court.

57. (*1*) The [2]Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (*2*), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

(*a*) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be ;

(*b*) if it arises in the [3]North-Western Provinces or Oudh or in Ajmer —to the High Court of Judicature for the North-Western Provinces ;

(*c*) if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the Chief Court of the Punjab [4] ;

(*d*) if it arises in the Central Provinces—to the High Court of Judicature at Bombay ;

[5][if it arises in Burma—to the Chief Court of Lower Burma];

(*e*) if it arises in any other part of British India—to the High Court of Judicature at Fort William.

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[1] These words and figures were inserted by s. 7 of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

[2] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner" —*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[3] For "North Western Provinces or Oudh" read the "United Provinces of Agra and Oudh" —*see* the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*.

[4] As regards proceedings under sections 57 to 60 of this Act in the North-West Frontier Province, the Chief Court of the Punjab is the High Court —*see* s. 6 (*1*) (*c*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[5] This clause was inserted by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and Sch. I.

(*2*) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of High Court or Chief Court to call for further particulars as to case stated.

58. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of case stated.

59. (*1*) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(*2*) The Court shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

Statement of case by other Courts to High Court or Chief Court.

60. (*1*) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (*a*) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the [1]Chief Controlling Revenue-authority, he would, under section 57, refer the same.

(*2*) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the [1]Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(*3*) References made under sub-section (*1*), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (*1*) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding, under Chapter XII or Chapter XXXVI of the [2]Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which

V of 1898.

[1] In the North-West Frontier Province, the Chief Controlling Revenue-authority is the Revenue Commissioner—*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[2] *Supra.*

appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(*2*) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(*3*) When any declaration has been recorded under sub-section (*2*), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(*4*) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

(*a*) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(*b*) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII.

Criminal Offences and Procedure.

Penalty for executing, etc., instrument not duly stamped.

62. (*1*) Any person—

(*a*) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped; or

(*b*) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(*c*) voting or attempting to vote under any proxy not duly stamped;

shall for every such offence be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(*2*) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

(*a*) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or,

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(*c*) does any other act calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

65. Any person who,—

(*a*) being required under section 30 to give a receipt, refuses or neglects to give the same; or,

(*b*) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy or making one not duly stamped.

66. Any person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(*b*) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

67. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who—

(*a*) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or,

(*b*) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or,

(*c*) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69. (*a*) Any person appointed to sell stamps who disobeys any rule made under section 74; and

(*b*) any person not so appointed who sells or offers for sale any stamp (other than a one-anna [1][or half an anna] adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

70. (*1*) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the

[1] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

(*2*) The [1]Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(*3*) The amount of any such composition shall be recoverable in the manner provided by section 48.

Jurisdiction of Magistrates.

71. No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of trial.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Books, etc., to be open to inspection.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector[1] to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Powers to make rules relating to sale of stamps.

74. The Local Government, subject to the control of the Governor General in Council, may make [2]rules for regulating—

(*a*) the supply and sale of stamps and stamped papers,

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[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner"—*see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), P. and N. W. Code.

[2] For such rules by the (*1*) Government of Bengal, *see* Notification No. 6442-S. R., dated the 2nd December 1899, Calcutta Gazette, 1899, Pt. I, p. 1498; *ibid*, 1900. Pt. I, p. 897; *ibid*, 1903, Pt. I, p. 1380; and *ibid*, 1906, Pt. I, p. 688; (2) Government of the Punjab, *see* Punjab Gazette, 1900, Pt. I, p. 415; (3) United Provinces of Agra and Oudh, *see* U. P. R. and O.; North-Western Provinces and Oudh Gazette, 1897, Pt. I, p. 173; *ibid*, 1901. Pt I, p. 601; *ibid*, 1902, Pt. I, p. 36; *ibid*, 1905, Pt. I, p. 535; *ibid*, 1907, Pt. I, p. 277; (*4*) North-West Frontier Province, *see* Gazette of India, 1902, Pt. II, p. 98; (5) Central Provinces, *see* Central Provinces Gazette, 1902, Pt. III, p. 65; and *ibid*, 1903, Pt. III, p. 49; *ibid*, 1904, Pt. III, p. 123; *ibid*, 1905 and 1906, Pt. III, pp. 570 and 13, respectively; (6) Burma, *see* Burma Gazette, 1902, Pt. I, p. 82; (*7*) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 1059; (*8*) Coorg, *see* Coorg Gazette, 1903, Pt. I, p. 66; *ibid*, 1905, Pt. I, pp. 66, 80; *ibid*, 1906, Pt. I, p. 115; (9) Madras, *see* Mad. R. and O.

(*b*) the persons by whom alone such sale is to be conducted, and

(*c*) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of one-anna [1] [or half an anna] adhesive stamps.

Power to make rules generally to carry out Act.

75. The Governor General in Council may make rules [2] to carry out generally the purposes of this Act, and may by such rules prescribe the fines which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication of rules.

76. (*1*) All rules made under this Act, other than rules made under section 74, shall be published in the Gazette of India, and all rules made under section 74 shall be published in the local Gazette.

(*2*) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Saving as to court-fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

Act to be translated and sold cheaply.

78. Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

Repeal.

79. The Acts mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

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[1] These words were inserted by s. 3 of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

[2] For instance of rules made under this section in conjunction with s. 10, *see* Gazette of India, 1899, Pt. I, p. 82, Gen. R. and O.

For rules as to payment of allowances in respect of spoiled or misused stamps, or on the renewal of debentures, *see* Gazette of India, 1903, Pt. I, p. 537.

SCHEDULE I.

STAMP-DUTY ON INSTRUMENTS.

(*See section 3.*)

Description of Instrument.	Proper stamp-duty.	
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna.	
2. ADMINISTRATION-BOND, including a bond given under section 256 of the [1] Indian Succession Act, 1865, section 6 of the [2] Government Saving Banks Act, 1873, section 78 of the [3] Probate and Administration Act, 1881, or section 9 or section 10 of the [4] Succession Certificate Act, 1889,—		X of 1865. V of 1873. V of 1881. VII of 1889.
(*a*) where the amount does not exceed Rs. 1,000.	The same duty as a bond (No. 15) for such amount.	
(*b*) in any other case	Five rupees.	
3. ADOPTION-DEED, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	Ten rupees.	
ADVOCATE. *See* ENTRY AS AN ADVOCATE (No. 30)		
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.	
Exemptions.		
Affidavit or declaration in writing when made—		
(*a*) as a condition of enlistment under the [5] Indian Articles of War;		V of 1869.
(*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or		
(*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.		

[1] General Acts, Vol. I.
[2] General Acts, Vol. II.
[3] General Acts, Vol. III.
[4] General Acts, Vol. IV.
[5] General Acts, Vol. II.

SCHEDULE I—*continued.*

Description of Instrument.	Proper stamp-duty.
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(*a*) if relating to the sale of a Government security or share in an incorporated company or other body corporate, or a bill of exchange.	One anna.
(*b*) if not otherwise provided for . . .	Eight annas.
Exemptions.[1] Agreement or memorandum of agreement—	
(*a*) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43;	
(*b*) made in the form of tenders to the Government of India for or relating to any loan;	
IX of 1874. (*c*) made under the [2] European Vagrancy Act, 1874, section 17.	
AGREEMENT TO LEASE. *See* Lease (No. 35).	
[3][**6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE,** that is to say, any instrument evidencing an agreement relating to—	
(*1*) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(*2*) the pawn or pledge of moveable property,	
where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 13 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 13 (*b*)] for the amount secured.
Exemption. Instrument of pawn or pledge of goods if unattested.]	

[1] For notification remitting the duty on such instruments for the cultivation of the hemp plant made by cultivators in the Madras Presidency, *see* Gazette of India, 1901, Pt. I, p. 32.

[2] General Acts, Vol. II.

[3] Substituted for the original article by s. 8 (*1*) of the Indian Stamp Amendment Act, 1904 (XV of 1904), General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.	Fifteen rupees.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(*a*) where the amount does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
Exemptions. (*a*) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(*b*) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice,[1] clerk or servant placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).	Five rupees.
Exemption. Instruments of apprenticeship executed by a Magistrate under the [2]Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	XIX of 1850.
10. ARTICLES OF ASSOCIATION OF A COMPANY.	Twenty-five rupees.
Exemption. Articles of any Association not formed for profit and registered under section 26 of the [3]Indian Companies Act, 1882.	VI of 1882.
See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).	
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.

[1] For notification remitting the duty on apprenticeship-deeds in the case of distributors or compositors apprenticed to the Superintendent of Government Printing, India, *see* Gazette of India, 1899, Pt. I, p. 1068.
[2] General Acts, Vol. I.
[3] General Acts, Vol. III.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
ASSIGNMENT. *See* CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY. *See* ENTRY AS AN ATTORNEY (No. 30), and POWER OF ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. *See* ADOPTION-DEED (No. 3).	
AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
Exemption.	
Bom. Act VI of 1873, Bom. Act III of 1876. Award under the [1]Bombay District Municipal Act, 1873, section 81, or the [2]Bombay Hereditary Offices Act, 1874, section 18.	
BILL OF EXCHANGE [as defined by s. 2 (*2*) and (*3*)] not being a BOND, bank-note or currency-note—	
(*a*) where payable on demand	One anna.

(*b*) where payable otherwise than on demand, but not more than one year after date or sight—	If drawn singly.			If drawn in set of two, for each part of the set.			If drawn in set of three, for each part of the set.		
	Rs.	*a.*	*p.*	*Rs.*	*a.*	*p.*	*Rs.*	*a.*	*p.*
if the amount of the Bill or note does not exceed Rs. 200 ;	0	2	0	0	1	0	0	1	0
if it exceeds Rs. 200 and does not exceed Rs. 400	0	4	0	0	2	0	0	2	0
Ditto 400 ditto 600	0	6	0	0	3	0	0	2	0

[1] *See* now the Bombay District Municipal Act, 1901 (Bom. Act III of 1901), Bom. Code.
[2] Bom. Code.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.		
	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
13. BILL OF EXCHANGE—*contd.*	*Rs. a. p.*	*Rs. a. p.*	*Rs. a. p.*
(*b*) where payable otherwise than on demand, but not more than one year after date or sight—*continued.*			
If it exceeds Rs. 600 and does not exceed Rs. 1,000	0 10 0	0 5 0	0 4 0
Ditto 1,000 ditto 1,200	0 12 0	0 6 0	0 4 0
Ditto 1,200 ditto 1,600	1 0 0	0 8 0	0 6 0
Ditto 1,600 ditto 2,500	1 8 0	0 12 0	0 8 0
Ditto 2,500 ditto 5,000	3 0 0	1 8 0	1 0 0
Ditto 5,000 ditto 7,500	4 8 0	2 4 0	1 8 0
Ditto 7,500 ditto 10,000	6 0 0	3 0 0	2 0 0
Ditto 10,000 ditto 15,000	9 0 0	4 8 0	3 0 0
Ditto 15,000 ditto 20,000	12 0 0	6 0 0	4 0 0
Ditto 20,000 ditto 25,000	15 0 0	7 8 0	5 0 0
Ditto 25,000 ditto 30,000	18 0 0	9 0 0	6 0 0
and for every additional Rs. 10,000 or part thereof in excess of 30,000	6 0 0	3 0 0	2 0 0
(*c*) where payable at more than one year after date or sight.	The same duty as a Bond (No. 15) for the same amount.		

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
[1]14. **BILL OF LADING** (including a through bill of lading). *Exemptions.* (*a*) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the [2]Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port. (*b*) Bill of lading when executed out of British India and relating to property to be delivered in British India.	Four annas. *N.B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
15. **BOND** [as defined by section 2 (*5*)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the [3]Court-fees Act, 1870,—	
where the amount or value secured does not exceed Rs. 10;	Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
Ditto 50 ditto 100	Eight annas.
Ditto 100 ditto 200	One rupee.
Ditto 200 ditto 300	One rupee eight annas.
Ditto 300 ditto 400	Two rupees.
Ditto 400 ditto 500	Two rupees eight annas.
Ditto 500 ditto 600	Three rupees.
Ditto 600 ditto 700	Three rupees eight annas.
Ditto 700 ditto 800	Four rupees.
Ditto 800 ditto 900	Four rupees eight annas.
Ditto 900 ditto 1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas.

X of 1889.

VII of 1870.

[1] Bills of lading of Inland Steamer Companies have been exempted from the duty payable under this article, *see* Gazette of India, 1904, Pt. I, p. 38.

[2] *See* now the Indian Ports Act, 1908, General Acts, Vol. VI.

[3] General Acts, Vol. II.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
15. BOND—*contd.*	
See ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY-BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	
Exemptions.	
Bond, when executed by—	
(*a*) headmen nominated under rules framed in accordance with the [1]Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	Ben. Act III of 1876.
(*b*) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Five rupees.
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—	
(*a*) where the purchase-money does not exceed Rs. 10;	Two annas.

[1] Ben. Code.

SCHEDULE I—*continued*.

Description of Instrument.	Proper Stamp-duty.
18. CERTIFICATE OF SALE—*contd.*	
(*b*) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	Four annas.
(*c*) in any other case	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. *See also* LETTER OF ALLOTMENT OF SHARES (No. 36).	One anna.
20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.
21. CHEQUE [as defined by section 2 (*7*)] . .	One anna.
22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license for the benefit of his creditors.	Ten rupees.
23. CONVEYANCE [as defined by section 2 (*10*)] not being a TRANSFER charged or exempted under No. 62,—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Eight annas.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
23. CONVEYANCE—*contd.*	
where it exceeds Rs. 50 but does not exceed Rs. 100	One rupee.
Ditto 100 ditto 200	Two rupees.
Ditto 200 ditto 300	Three rupees.
Ditto 300 ditto 400	Four rupees.
Ditto 400 ditto 500	Five rupees.
Ditto 500 ditto 600	Six rupees.
Ditto 600 ditto 700	Seven rupees.
Ditto 700 ditto 800	Eight rupees.
Ditto 800 ditto 900	Nine rupees.
Ditto 900 ditto 1,000	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
Exemption.	
Assignment of copyright by entry made under the [1] Indian Copyright Act, 1847, section 5.	XX of 1847.
CO-PARTNERSHIP-DEED, *See* PARTNERSHIP (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee.	Eight annas.
(*ii*) in any other case	One rupee.
Exemptions.	
(*a*) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	

[1] General Acts, Vol. 1

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
24. COPY OR EXTRACT—*contd.*	
Exemptions—contd.	
[1 (*b*) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, deaths or burials.]	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid,—	
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee.	The same duty as is payable on the original.
(*b*) in any other case	One rupee.
Exemption.	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(*a*) where the amount does not exceed Rs. 1,000.	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable by delivery, or by endorsement or by a separate instrument of transfer.	The same duty as a Bond (No. 15) for the same amount.
Explanation.—The term Debenture includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	

[1] This clause was substituted for cls. (*b*) and (*c*) by s. 7 (*1*) of the Indian Stamp (Amendment) Act, 1906 (V of 1906). General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
27. DEBENTURE—*contd.* *Exemption.* A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed. *See also* BOND (No. 15) and SECTIONS 8 and 55.	
DECLARATION OF ANY TRUST. *See* TRUST (No. 64).	
28. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	One anna.
DEPOSIT OF TITLE-DEEDS. [1] [*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]	
ISSOLUTION OF PARTNERSHIP. *See* PARTNERSHIP (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee
DOWER—Instrument of. *See* SETTLEMENT (No. 58).	
DUPLICATE.—*See* COUNTERPART (No. 25).	

[1] Substituted for the words and figure "*See* Agreement by way of equitable mortgage (No. 6)" by s. (2) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), Genera Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by Letters Patent or by the [1] Legal Practitioners Act, 1884— IX of 1884.	
(*a*) in the case of an Advocate or Vakil . .	Five hundred rupees.
(*b*) in the case of an Attorney	Two hundred and fifty rupees.
Exemption. Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
[2]* * * * * * * * *	
31. EXCHANGE OF PROPERTY—Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. *See* COPY (No. 24).	
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given . . .	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

[1] General Acts, Vol. III.

[2] The entry "Equitable Mortgage" was omitted by s. 8 (*j*) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI; the entry was as follows: "EQUITABLE MORTGAGE. *See* Agreement by way of Equitable Mortgage (No. 6)."

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
HIRING AGREEMENT or agreement for service. *See* AGREEMENT (No. 5).	
34. INDEMNITY-BOND	The same duty as a Security-Bond (No. 57) for the same amount.
INSPECTORSHIP-DEED. *See* COMPOSITION-DEED (No. 22).	
INSURANCE. *See* POLICY OF INSURANCE (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(*a*) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year ;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years ;	The same duty as a Bond (No. 15), for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity ;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(*b*) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty
35. LEASE—*contd.* (*c*) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
Exemptions. (*a*) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. VII of 1875. (*b*) Leases of fisheries granted under the [1] Burma Fisheries Act, 1875, or the [2] Upper Burma Land and Revenue Regulation, 1899. III of 1889.	
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company. *See also* CERTIFICATE OR OTHER DOCUMENT (No. 19).	One anna.
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	One anna.
LETTER OF GUARANTEE. *See* AGREEMENT (No. 5).	
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Ten rupees.

[1] *See* now the Burma Fisheries Act, 1905 (Burma Act III of 1905), by which Act VII of 1875 is repealed.

[2] Bur. Code.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(*a*) if accompanied by articles of association under section 37 of the [1]Indian Companies Act, 1882;	Fifteen rupees. VI of 1882.
(*b*) if not so accompanied	Forty rupees.
Exemption.	
Memorandum of any association not formed for profit and registered under section 26 of the [1]Indian Companies Act, 1882.	
40. MORTGAGE-DEED, not being [2][an AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)], BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY-BOND (No. 57)— VI of 1882.	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(*b*) when * * *[3] possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(*c*) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas.

[1] General Acts, Vol. III.

[2] These words were substituted for the words "AN AGREEMENT TO MORTGAGE (No. 6)" by s. 8 (4) (*a*) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

[3] The words "at the time of execution" in cl. (*b*) of art. 40 were repealed by s. 8 (4) (*b*) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
40. MORTGAGE-DEED—*contd.*	
Exemptions.	
(*1*) Instruments executed by persons taking advances under the [1]Land Improvement Loans Act, 1883, or the [2]Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. (XII of 1894. XII of 1884.)	
(*2*) Letter of hypothecation accompanying a bill of exchange.	
* * * * * * * *[3]	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(*a*) when the loan is repayable not more than three months from the date of the instrument—for every sum secured not exceeding Rs. 200;	One anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna.
(*b*) when the loan is repayable more than three months, but not more than [4][eighteen months], from the date of the instrument—	
for every sum secured not exceeding Rs. 100.	[5][Two annas.]
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	[5][Two annas.]
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
See also PROTEST OF BILL OR NOTE (No. 50).	
43. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees.	One anna.

[1] General Acts, Vol. III.
[2] General Acts, Vol. III.
[3] The exemption "(*3*) Instrument of pledge or pawn of goods [unattested]" was repealed by s. 8 (*4*) (*c*) of the Indian Stamp (Amendment) Act, 1904 (XV, 1904), General Acts, Vol. VI.
[4] These words were substituted for the words "one year" by s. 7 (*2*) of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.
[5] The words "Two annas" were substituted for "Four annas" by s. 8 (*5*) of Act XV of 1904, General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Eight annas.
See also PROTEST BY THE MASTER OF A SHIP (No. 51).	
ORDER FOR THE PAYMENT OF MONEY. *See* BILL OF EXCHANGE (No. 13).	
45. PARTITION—Instrument of [as defined by s. 2 (*15*)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

N.B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :

Provided always that—

(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas :

(*b*) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue :

(*c*) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

46. PARTNERSHIP—	
A.—INSTRUMENT OF—	
(*a*) where the capital of the partnership does not exceed Rs. 500 ;	Two rupees eight annas.
(*b*) in other cases	Ten rupees.
B.—DISSOLUTION OF	Five rupees.
[**PAWN OR PLEDGE**—*See* AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).]	

[1] This entry was inserted by s. 3 (*6*) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.	
	If drawn singly.	If drawn in duplicate, for each part.
47. POLICY OF INSURANCE—		
[1] [A.—SEA-INSURANCE (*see* section 7)—		
(*1*) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy :	One anna	Half an anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy ;	Two annas	One anna.
(*2*) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months ;	Two annas	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.]	Four annas	Two annas.
[1] [B. FIRE-INSURANCE—		
(*1*) in respect of an original policy—		
(i) when the sum insured does not exceed Rs. 5,000 ;	Eight annas.	
(ii) in any other case;	One rupee.	
and		

[1] These divisions A and B were substituted for the original divisions A and B by s. 7(*3*) of the Indian Stamp Amendment) Act, 1906 (V of 1906) General, Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*contd.*	
B.—FIRE INSURANCE—*contd.*	
(*2*) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.]
C.—ACCIDENT AND SICKNESS-INSURANCE—	
(*a*) against railway accident, valid for a single journey only.	One anna.
Exemption.	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(*b*) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000, or part thereof.	Two annas.
D.—LIFE-INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article—	
for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—	
(i) if drawn singly	Six annas.
(ii) if drawn in duplicate, for each part .	Three annas.
Exemption.	
Policies of life-insurance granted by the Director General of the Post Office of India in accordance with rules for Postal Life-Insurance issued under the authority of the Government of India.	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*concld.*	
E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.
General Exemption.	
Letter of cover or engagement to issue a policy of insurance:	
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	
48. POWER-OF-ATTORNEY [as defined by section 2 (*21*)], not being a PROXY (No. 52),—	
(*a*) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Eight annas.
(*b*) when required in suits or proceedings under the [1]Presidency Small Cause Courts Act, 1882; XV of 1882.	Eight annas.
(*c*) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (*a*);	One rupee.
(*d*) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	Five rupees.
(*e*) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(*f*) when given for consideration and authorizing the attorney to sell any immoveable property.	The same duty as a Conveyance (No. 23) for the amount of the consideration.

[1] General Acts, Vol. III.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
48. POWER-OF-ATTORNEY—*contd.*	
(*g*) in any other case	One rupee for each person authorized.
	N.B.—The term "registration" includes every operation incidental to registration under the [1]Indian Registration Act, 1877. III of 1877.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
49. PROMISSORY NOTE [as defined by section 2 (*22*).]	The same duty as a Bill of Exchange (No. 13) according as it is payable on demand or payable otherwise than on demand, as the case may be.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or promissory note.	One rupee.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	One rupee.
See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	
52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (*a*) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (*b*) a local authority, or (*c*) proprietors, members or contributors to the Funds of any institution.	One anna.
53. RECEIPT [as defined by section 2 (*23*)] for any money or other property the amount or value of which exceeds twenty rupees.	One anna.

[1] *See* now the Indian Registration Act, 1908, General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
53. RECEIPT—*contd.* *Exemptions.* Receipt— (*a*) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured; (*b*) for any payment of money without consideration; (*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue or (in the Presidencies of Fort St. George and Bombay) of Inam lands; (*d*) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constables; (*e*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity; (*f*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity; (*g*) given by a headman or lambardar for land-revenue or taxes collected by him; (*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for: Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
53. RECEIPT—*concld.* *Exemptions—contd.* Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for, or upon a letter of allotment of a share or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security. [[1]*See also* POLICY OF INSURANCE [No. 47-B (2).]]	
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(*a*) if the consideration for which the propeerty was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(*b*) in any other case	Ten rupees,
55. RELEASE, that is to say, any instrument [2][(not being such a release as is provided for by section 23A)] whereby a person renounces a claim upon another person or against any specified property—	
(*a*) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(*b*) in any other case	Five rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT. *See* SETTLEMENT (No. 58); TRUST (No. 64).	

[1] This note was added by s. 7 (4) of the Indian Stamp (Amendment) Act, 1906 (V of 1906), General Acts, Vol. VI.

[2] The parenthesis was inserted by s. 8 (7) of the Indian Stamp (Amendment) Act, 1904 (XV of 1904), General Acts, Vol. VI.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
57. SECURITY BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—	
(*a*) when the amount secured does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for the amount secured.
(*b*) in any other case	Five rupees.
Exemptions.	
Bond or other instrument, when executed—	
(*a*) by headmen nominated under rules framed in accordance with the [1]Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ; (Ben. Act III of 1876.)	
(*b*) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;	
(*c*) under No. 3A of the rules made by the Governor of Bombay in Council under section 70 of the [2]Bombay Irrigation Act, 1879 ; (Bom. Act VII of 1879.)	
(*d*) executed by persons taking advances under the [3]Land Improvement Loans Act, 1883, of the [3]Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances ; (XIX of 1883. XII of 1884.)	
(*e*) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—INSTRUMENT OF (including a deed of dower).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement : Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

[1] Ben. Code.
[2] Bom. Code.
[3] General Acts, Vol. III.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
58. SETTLEMENT—*contd.*	
A. INSTRUMENT OF—*contd.*	
Exemptions.	
(*a*) Deed of dower executed on the occasion of a marriage between Muhammadans.	
(*b*) Hludassa, that is to say, any settlement of immoveable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.	
B.—REVOCATION OF—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.
See also TRUST (No. 64).	
VI of 1882. **59. SHARE WARRANTS** to bearer issued under the [1]Indian Companies Act, 1882.	Three-quarters of the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemptions.	
Share warrant when issued by a company in pursuance of the [1]Indian Companies Act, 1882, section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of—	
(*a*) three-quarters per centum of the whole subscribed capital of the company, or	
(*b*) if any company which has paid the said duty or composition in full subsequently issues an addition to its subscribed capital —three-quarters per centum of the additional capital so issued.	
SCRIP. *See* CERTIFICATE (No. 19).	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.

[1] General Acts, Vol. III.

SCHEDULE I.—*continued.*

Description of Instrument.	Proper Stamp duty.
SURRENDER OF LEASE—	
(*a*) when the duty with which the lease is chargeable does not exceed five rupees ;	The duty with which such lease is chargeable.
(*b*) in any other case	Five rupees.
Exemption.	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(*a*) of shares in an incorporated company or other body corporate ;	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8 ;	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(*c*) of any interest secured by a bond, mortgage-deed or policy of insurance—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees ;	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case	Five rupees.
(*d*) of any property under the [1]Administrator General's Act, 1874, section 31 ;	Ten rupees.
(*e*) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (*a*) to (*c*) of this article.

II of 1874.

[1] General Acts, Vol. II.

SCHEDULE I—*concluded.*

Description of Instrument.	Proper Stamp-duty.
62. TRANSFER—*contd.* *Exemptions.* Transfers by endorsement— (*a*) of a bill of exchange, cheque or promissory note; (*b*) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (*c*) of a policy of insurance; (*d*) of securities of the Government of India. *See also section 8.*	
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease. *Exemption.* Transfer of any lease exempt from duty.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
64. TRUST –	
A.—DECLARATION OF—of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.
B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a WILL. *See also* SETTLEMENT (No. 58).	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.
VALUATION. *See* APPRAISEMENT (No. 8).	
VAKIL. *See* ENTRY AS A VAKIL (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Four annas.

SCHEDULE II.

ENACTMENTS REPEALED.

(*See section 79.*)

No.	Year.	Short title.	Extent of repeal.
I	1879	The Indian Stamp Act, 1879 . .	The whole.
VI	1882	The Indian Companies Act, 1882 .	Section 35.
IX	1884	The Legal Practitioners Act, 1884 .	Section 10.
I	1888	The Indian Stamp Act (1879) Amendment Act, 1888.	The whole.
V	1888	The Inventions and Designs Act, 1888	So much of the first schedule as relates to the Indian Stamp Act, 1879 (I of 1879).
XVIII	1888	The Burma Financial Commissioner's Act, 1888.	So much of the schedule as relates to the Indian Stamp Act, 1879 (I of 1879).
	1889	The Probate and Administration Act, 1889.	Sub-sections (3) and (4) of section 18.
XX	1890	The North-Western Provinces and Oudh Act, 1890.	So much of section 38 as relates to the Indian Stamp Act, 1879 (I of 1879).
XII	1891	The Repealing and Amending Act, 1891.	So much of Part I of the first and second schedules as relates to the Indian Stamp Act, 1879 (I of 1879).
VI	1894	The Indian Stamp Act (1879) Amendment Act, 1894.	The whole.
XIII	1897	The Indian Stamp Act (1879) Amendment Act, 1897.	The whole.

ACT No. III OF 1899.[1]

[*27th January 1899.*]

An Act to further amend the Presidency Small Cause Courts Act, 1882.[2]

WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882[2]; It is hereby enacted as follows :— XV of 1882.

Short title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts Act, 1899;

(*2*) It shall come into force at once.

Amendment of section 4, Act XV, 1882.

XV of 1882.

2. To section 4 of the [2] Presidency Small Cause Courts Act, 1882 (hereinafter referred to as "the said Act"), the words "and the expression 'Registrar' includes a Deputy Registrar" shall be added.

Substitution of new section for section 8A, Act XV, 1882, as amended by section 4, Act I, 1895.

I of 1895.

3. For section 8A of the said Act as amended by the Presidency Small Cause Courts Act, 1895,[3] the following section shall be substituted, namely :—

Performance of duties of absent Judge.

"8A. (*1*) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to act as Chief Judge or Judge of the said Court, as the case may be.

(*2*) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be."

Amendment of section 9, Act XV, 1882, as amended by section 5, Act I, 1895.

4. In section 9, sub-section (*1*), of the said Act as so amended, after clause (*a*) the following clause shall be added, namely :—

"(*aa*) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, and".

Amendment of section 13, Act XV, 1882.

5. In section 13 of the said Act, between the word "appoint" and the words "as many clerks" the words "a Deputy Registrar and" shall be inserted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 210; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 1; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 101; *ibid*, 1899, Pt. VI, pp. 3 and 16.

[2] General Acts, Vol. III.

[3] General Acts, Vol. IV.

ACT No. IV OF 1899.[1]

[*3rd February 1899.*]

An Act to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Government Buildings Act, 1899.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

"Municipal authority" defined.

2. In this Act the expression "municipal authority" includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption of certain Government buildings from municipal laws to regulate the erection, etc., of buildings within municipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose, which is the property, or in the occupation, of the Government, or which is to be erected on land which is the property, or in the occupation, of the Government:

Provided that, where the erection, re-erection, construction or material structural alteration of any such building as aforesaid (not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

Objections or suggestions as to erection, etc., of certain Government buildings.

4. (*1*) In the case of any such building as is mentioned in the last preceding section (not being a building connected with Imperial defence or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 256; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 15; and for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 2, 15 and 20.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

within municipalities how to be made and dealt with.

the Local Government previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the Local Government, inspect the land and building and all plans connected with its erection, re-erection, construction or material structural alteration, as the case may be, and may submit to the Local Government a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction or material structural alteration.

(*2*) Every objection or suggestion submitted as aforesaid shall be considered by the Local Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed or altered, as the case may be, in accordance with such orders :

Provided that, if the Local Government overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing.

(*3*) Every order passed by the Local Government under this section shall be subject to revision by the Governor General in Council, but not otherwise, and the decision of the Governor General in Council thereon shall be final.

ACT No. V OF 1899.[1]

[*10th February 1899.*]

An Act to further amend the Indian Evidence Act, 1872.[2]

I of 1872.

WHEREAS it is expedient to further amend the Indian Evidence Act, 1872[2] ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Evidence Act, 1899 ; and

(*2*) It shall come into force at once.

I of 1872.

Addition to section 37, Act I, 1872.

2. To section 37 of the Indian Evidence Act, 1872,[2] the following shall be added, namely :—

"This section applies also to any Act of the Lieutenant-Governor in Council of the [3]North-Western Provinces and Oudh, the Punjab or Burma."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 349; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 23 ; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 389 ; and *ibid*, 1899, pp. 17 and 24.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[2] General Acts, Vol. II.

[3] For "North-Western Provinces and Oudh," read now "United Provinces of Agra and Oudh," *see* the United Provinces Designation Act, 1902 (VII of 1902), *infra*.

Amendment of section 45 and addition, to section 73, Act I, 1872.

3. (*1*) In [section 45 of the said Act, as amended by section 4 of the Indian Evidence Act Amendment Act, after the word "handwriting," in each of the two places in which it occurs, the words "or finger-impressions" shall be inserted. XVIII of 1872.

(*2*) To section 73 of the said Act the following shall be added, namely:—

"This section applies also, with any necessary modifications, to finger-impressions."

Amendment of section 86, Act I, 1872.

4. In section 86 of the said Act, as amended by section 8 of the Indian Evidence Act (1872) Amendment Act, 1891[1], for the second paragraph the following shall be substituted, namely:— III of 1891.

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3, clause (40), of the General Clauses Act, 1897,[1] shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place." X of 1897.

Partial repeal of section 8, Act III, 1891.

5. In section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, the words and figures from "and to the same" to the end of the section are hereby repealed. III of 1891.

ACT No. VI OF 1899.

[*17th February 1899.*]

An Act to amend the Indian Contract Act, 1872.[3]

WHEREAS it is expedient to amend the Indian Contract Act, 1872[3]; It is hereby enacted as follows:— IX of 1872.

Short title, commencement and application.

1. (*1*) This Act may be called the Indian Contract Act Amendment Act, 1899.

(*2*) It shall come into force on the first day of May, 1899; and

(*3*) It shall apply to every contract in respect of which any suit is instituted, or which is put in issue in any suit, after the commencement of this Act.

Substitution of new section for section 16, Act IX, 1872.

2. Section 16 of the Indian Contract Act, 1872[3], is hereby repealed, and the following is substituted therefor, namely:— IX of 1872.

"Undue influence" defined.

16. (*1*) A contract is said to be induced by 'undue influence' where the relations subsisting between the parties are such that one of the parties is

[1] General Acts, Vol. IV.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 274; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 19; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 293; *ibid*, 1899, Pt. VI, pp. 10 and 207.

[3] General Acts, Vol. II.

in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

(*2*) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another—

(*a*) where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or

(*b*) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

(*3*) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by indue unfluence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872.[1] I of 1872.

Illustrations.

(*a*) A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.

(*b*) A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.

(*c*) A being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

(*d*) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence."

3. In section 19 of the said Act the words "undue influence" are hereby repealed, and after the same section the following is inserted, namely:— Amendment of section 19 of, and addition of new section to, Act IX, 1872.

"19A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused. Power to set aside contract induced by undue influence.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

[1] General Acts, Vol. II.

Illustration.

(*a*) A's son has forged B's name to a promissory note. B, under threat of prosecuting A's son, obtains a bond from A for the amount of the forged note. If B sues on this bond, the Court may set the bond aside.

(*b*) A, a money-lender, advances Rs. 100 to B, an agriculturist, and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 6 per cent. per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just."

Amendment of section 74, Act IX, 1872.

4. (*1*) Section 74, paragraph 1, of the said Act is hereby repealed, and the following is substituted therefor, namely :—

Compensation for breach of contract where penalty stipulated for.

"74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.

Explanation.—A stipulation for increased interest from the date of default may be a stipulation by way of penalty."

(*2*) After *illustration* (*c*) to the said section the following *illustrations* shall be added, namely :—

"(*d*) A gives B a bond for the repayment of Rs. 1,000 wtih interest at 12 per cent. at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent. from the date of default. This is a stipulation by way of penalty, and B is only entitled to recover from A such compensation as the Court considers reasonable.

(*e*) A, who owes money to B, a money-lender, undertakes to repay him by delivering to him 10 maunds of grain on a certain date, and stipulates that, in the event of his not delivering the stipulated amount by the stipulated date, he shall be liable to deliver 20 maunds. This is a stipulation by way of penalty, and B is only entitled to reasonable compensation in case of breach.

(*f*) A undertakes to repay B a loan of Rs. 1,000 by five equal monthly instalments, with a stipulation that, in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty, and the contract may be inforced according to its terms.

(*g*) A borrows Rs. 100 from B and gives him a bond for Rs. 200 payable by five yearly instalments of Rs. 40, with a stipulation that, in default of payment of any instalment, the whole shall become due. This is a stipulation by way of penalty."

ACT No. VII OF 1899.[1]

[*17th February 1899.*]

An Act to further amend the Indian Steam-vessels Act, 1884.[2]

VI of 1884. WHEREAS it is expedient to further amend the Inland Steam-vessels Act, 1884[3] (hereinafter referred to as "the said Act"); It is hereby enacted asfollows :

Short title and commencement.

1. (*1*) This Act may be called the Inland Steam-vessels Act (1884) Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section after section 29, Act VI, 1884.

2. After section 29 of the said Act the following section shall be added, namely :—

Certificates of competency or service to have effect throughout British India.

"29A. Every certificate of competency or service granted under this Act shall have effect throughout British India."

Addition to heading to Chapter VI, Act VI, 1884.

3. To the heading to Chapter VI of the said Act the words "AND FROM COLLISION" shall be added.

Addition of new section after section 50, Act VI, 1884.

4. After section 50 of the said Act the following section shall be added, namely :—

Power for Local Government to make rules for protection of inland steam vessel from collision.

"50A. (*1*) The Local Government may make rules for the protection of inland steam-vessels from collision.

(*2*) Rules under this section may regulate the following among other matters, that is to say :—

(*a*) the making of sound-signals ;

(*b*) the carriage and exhibition of lights by inland steam-vessels ;

(*c*) the carriage and exhibition of lights by other vessels on inland waters, on which steam-vessels ply and which are specified in the rules ;

(*d*) the steering rules to be observed ; and

(*e*) the towing of vessels astern or alongside.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 277; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 17; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 358; *ibid*, 1899, pp. 323 and 352.

[2] General Acts, Vol. III.

THE INDIAN PETROLEUM ACT, 1899.

CONTENTS.

Preliminary.

SECTIONS.
1. Short title, commencement and extent.
2. Definitions.
3. Matters supplemental to definitions.
4. Power to vary tests and prescribe new tests.

Dangerous Petroleum.

5. Dangerous petroleum in quantities exceeding forty gallons.
6. Dangerous petroleum in quantities not exceeding forty gallons.
7. Vessels containing dangerous petroleum to be labelled.

Petroleum generally.

8. Power for Governor General in Council to make rules.
9. Power for Local Government to make rules.
10. Procedure after petroleum has been discharged or landed.
11. Possession and transport of petroleum.
12. Power to inspect and require dealer to sell samples.
13. Notice to be given when officer proposes to test samples.
14. Certificate as to result of testing.

Penalties.

15. Penalty for illegal importation, possession or transport of petroleum or for refusal to comply with section 12.
16. Penalty for contravention of section 7.
17. Confiscation of petroleum.
18. Jurisdiction.

Test-apparatus.

19. Model test-apparatus.
20. Verification of test-apparatus.

Miscellaneous.

21. Power to exempt petroleum from operation of Act.
22. Power to apply Act to other substances.
23. Power to limit operation of enactments relating to possession or transport of petroleum in municipalities.
24. Previous publication, etc., of rules.
25. Repeal.

THE FIRST SCHEDULE.—TESTING.
THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT No. VIII OF 1899.[1]

[*17th February 1899.*]

An Act to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances.

WHEREAS it is expedient to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances; It is hereby enacted as follows:—

Preliminary.

Short title, commencement and extent.

1. (*1*) This Act may be called the Indian Petroleum Act, 1899; and

(*2*) It shall come into force at once.

(*3*) [2]Sections 1 to 3, section 25, and all the provisions[3] of this Act in so far as they relate to dangerous petroleum and the importation of petroleum extend to the whole of British India. The rest[4] of this Act extends only to such local areas as the Local Government may, by notification in the local official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "petroleum" includes also—

(*i*) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, paraffin oil, mineral oil, kerosine, petroline, gasoline, benzoline, benzine and benzol;

(*ii*) any inflammable liquid which is made from petroleum, coal schist, shale, peat or any other bituminous substance, or from any product of petroleum; and

(*iii*) any liquid, or viscous mixture having in its composition any of the liquids aforesaid;

but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 13; for Report of the Select Committee, *see ibid*, p. 25; for Proceedings in Council, *see ibid*, Pt. VI, pp. 12 and 24.

[2] These sections and provisions have been extended to Brit. Baluchistan under *s.* 5 of the Scheduled Districts Act, 1874, *see* Gazette of India, 1899, Pt. II, p. 1159.

[3] These provisions have been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[4] The rest of the Act was extended to—

(1) Coorg—*see* Coorg District Gazette, 1899, Pt. I, p. 125;
(2) Ajmer-Merwara—*see* Gazette of India, 1901, Pt. II, p. 1178;
(3) the Punjab—*see* Punjab Gazette, 1902, Pt. I, p. 21;
(4) the Madras Presidency—*see* Fort St. George Gazette, 1900, Pt. I, p. 616; *ibid*, 1901, p. 3-5.
(5) Burma (except the Shan States)—*see* Burma Gazette, 1901, Pt. I, p. 87;
(6) the United Provinces—*see* N. W. P. and Oudh Gazette, 1901, Pt. I, p 267;
(7) the Bombay Presidency—*see* Bombay Government Gazette, 1901, Pt. I, p. 902;
(8) the North-West Frontier Province—*see* Gazette of India, 1903, Pt. II, p. 969;
(9) Bengal, *see* Ben. R. and O.;
(10) Central Provinces, *see* Central Provinces Gazette, 1906, Pt. III, p. 517.

(*b*) [1]"dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer:

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous, if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of these samples has its flashing point below seventy degrees of that thermometer:

(*c*) to "import" means to bring into British India by sea or land:

(*d*) to "transport" means to remove within British India from one place to another:

(*e*) "prescribed" means prescribed by rules made under this Act: and

(*f*) "ship" includes anything made for the conveyance by water of human beings or property.

Matters supplemental to definitions.

3. (*1*) The "flashing point" of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the first schedule with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing, have been made.

(*2*) Notwithstanding anything in the definitions of "import" and "transport," the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare—

[2](*a*) that petroleum imported into the Province from any part of British India, by sea or across intervening territory not being part of

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[1] For rules as to carriage of petroleum in ships leaving British India to which the Native Passenger Ships Act, 1887 (X of 1887) applies, *see* Gazette of India, 1903, Pt. I, p. 803. The same notification prohibits the carriage of dangerous petroleum in such ships.

For rules as to control of vessels entering Calcutta with petroleum in bulk under the Indian Ports Act, 1889 (*see* now the Indian Ports Act, 1908), *see* Calcutta Gazette, 1903, Pt. I, p. 1165.

[2] Petroleum imported into Chittagong by sea from any port in Burma is to be deemed to be transported within the meaning of this clause, *see* Notification No. 134-Marine, dated 27th July, 1900, Calcutta Gazette, 1900, Pt. I, p. 828.

For notifications under this clause affecting petroleum imported into—

Madras, *see* Fort St. George Gazette, 1900, Pt. I, p. 169;

Calcutta, *see* Calcutta Gazette, 1900, Pt. I, p. 828;

the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, p. 102;

Burma, *see* Burma Gazette, 1903, Pt. I, p. 14.

British India, shall, for all or any of the purposes of this Act, be deemed to be transported ; and

(*b*) that petroleum transported into the Province from any place in British India shall, for all or any of those purposes, be deemed to be imported ;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Power to vary tests and prescribe new tests.

4. (*1*) The Governor General in Council may, by notification in the Gazette of India, alter or add to [1] the First Schedule by laying down new or varied tests and directions for preparing and using them ; and after the issue of any such notification as aforesaid, the reference in section 3, sub-section (*1*), to the First Schedule shall be construed as referring to the said schedule as so altered or added to for the time being.

(*2*) The Governor General in Council may, in like manner, lay down special tests and issue special instructions in respect of the testing of any substance other than petroleum to which the whole or any portion of this Act may be applied in exercise of the power conferred by section 22, and for which the tests in the First Schedule are unsuitable.

X of 1897.

(*3*) The provisions of section 23 of the General Clauses Act, 1897,[2] shall apply to notifications under this section as if they were rules or orders required to be made after previous publication.

Dangerous Petroleum.

Dangerous petroleum in quantities exceeding forty gallons.

5. (*1*) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported or kept by any one person or on the same premises, except under, and in accordance with the conditions (if any) of, a license from the Local Government * * *.[3]

(*2*) Every application for such a license shall be in writing in the prescribed form,[4] and shall contain the prescribed particulars.

Dangerous petroleum in quantities not exceeding forty gallons.

6. No quantity of dangerous petroleum equal to, or less than, forty gallons shall be kept or transported without a license :

Provided that nothing in this section shall apply in any case where the quantity of the petroleum kept by any one person or on the same premises,

[1] For notification making an addition to the First Schedule, *see* Gazette of India, 1900, Pt. I, p. 403 ; Gen. R. and O.

[2] General Acts, Vol. IV.

[3] The words "granted as next hereinafter provided" were repealed by the Repealing and Amending Act, 1901 (XI of 1901), *infra*.

[4] For form of application for a license to import, transport and possess petroleum in Burma, *see* Burma Gazette, 1900, Pt. I, p. 683.

or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

Dangerous petroleum—

(*a*) which is imported and is kept at any place after seven days from the date of its importation, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels having attached thereto labels in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition,—

(*d*) in the case of a vessel kept, of the name and address of the consignee or owner;

(*e*) in the case of a vessel transported, of the name and address of the sender; and,

(*f*) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Governor General in Council to make rules.

8. (*1*) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such[1] rules may provide for the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases in which such licenses are by law required.

Power for Local Government to make rules.

9. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may make rules[2] to regulate the importation of

[1] For rules as to the transport of petroleum from one Province of British India to another, *see* Gazette of India, 1902, Pt. I, p. 889; Gen. R. and O.

[2] For rules under this section for refining and testing of petroleum produced in Burma, *see* Burma Gazette, 1899, Pt. I, p. 215, and *ibid*, 1902, Pt. I, p. 493.

For rules regulating import by sea of petroleum into (1) Bengal, *see* Calcutta Gazette, 1892, Pt. I, p. 973; *ibid*, 1894, Pt. I, p. 889; *ibid*, 1895, Pt. I, p. 994; (2) Bombay, *see* Bombay Government Gazette, 1890, Pt. I, p. 341; (3) Burma, *see* Bur. R. M.; and (4) Madras, *see* Fort St. George Gazette, 1904, Pt. I, p. 136; Mad. R. and O.

For rules regulating the import, possession, sale and transport of carbide of calcium in—

(*1*) Ajmer-Merwara, *see* Gazette of India, 1906, Pt. II, p. 1444;

(*2*) Eastern Bengal and Assam, *see* Eastern Bengal and Assam Gazette, 1906, Pt. II, p. 727;

(*3*) Bengal, *see* Calcutta Gazette, 1906, Pt. I, p. 944; *ibid*, 1906, Pt. I, p. 126;

(*4*) Bombay, *see* Bombay Government Gazette, 1906, Pt. I, p. 751; *ibid*, 1907, Pt. I, p. 55;

(*5*) Burma, *see* Burma Gazette, 1906, Pt. I, pp. 294, 302;

Central Provinces, *see* Central Provinces Gazette, 1906, Pt. III, p. 196;

(*7*) Coorg, *see* Coorg District Gazette, 1906, Pt. I, p. 82; *ibid*, 1907, Pt. I, p. 13;

petroleum and the granting of licenses to possess or to transport petroleum within the Province in cases in which such licenses are by law required.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) determine the ports at which alone petroleum may be imported ;

(*b*) provide for ascertaining the quantity and description of any petroleum on board any ship ;

(*c*) determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped or stored ;

(*d*) provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(*e*) provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(*f*) provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples ;

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(8) Madras, *see* Fort St. George Gazette, 1906, Pt. I, p. 381 ; *ibid*, 1907, Pt. I, p. 94 ;
(9) North-West Frontier Province, *see* Gazette of India, 1906, Pt. II, p. 643 ;
(10) Punjab, *see* Punjab Gazette, 1906, Pt. I, p. 586 ; *ibid*, 1907, Pt. I, p. 55 ;
(11) United Provinces, *see* United Provinces R. and O. ; United Provinces Gazette, 1906, Pt. I, p. 402 ; *ibid*, 1907, Pt. I, p. 51 ;

For rules regulating the grant of licenses to possess or transport petroleum in—

(1) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 108 ;
(2) Assam, *see* Assam Gazette, 1903, Pt. II, p. 406 ;
(3) Bengal, *see* Calcutta Gazette, 1903, Pt. I, p. 823; as to grant of licenses to owners of motor cars to possess and transport petrol, *see ibid*, 1905, Pt. I, p. 1624 ;
(4) Bombay, *see* Bombay Government Gazette, 1906, Pt. I, p. 141 ; *ibid*, 1904, Pt. I, p. 1234, as to licenses to owners of motor cars to possess petrol ;
(5) Burma, *see* Burma Gazette, 1909, Pt. I, p. 55 ; as to grant to owners of motor cars of special licenses to keep and transport petrol for use in such cars, *see* Burma Gazette, 1904, Pt. I, p. 151 ;
(6) Central Provinces, *see* Central Provinces Gazette, 1906, Pt. III, p. 245 ;
(7) Coorg, *see* Coorg District Gazette, 1901, Pt. I, p. 116 ;
(8) Madras, *see* Mad. R. and O. ; Fort St. George Gazette, 1904, Pt. I, p. 138 ; as to grant to owners of motor vehicles of licenses to keep and transport petrol for use therein, *see ibid*, 1904, Pt. II, p. 1017 ;
(9) North-West Frontier Province, *see* Gazette of India, 1904, Pt. II, p. 1393 ;
(10) Punjab, *see* Punjab Gazette, 1909, Pt. I, p. 109 ;
(11) United Provinces, *see* North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 678; as to grant of licenses to owners or hirers of motor cars, *see* United Provinces Gazette, 1909, Pt. I, p. 94.

(*g*) fix fees for the sampling and testing of petroleum ;

(*h*) fix fees for the storage of petroleum unless any local authority is empowered in that behalf ;

(*i*) define, with respect to any petroleum produced within the Province, the limits of the places in which such petroleum is to be refined [1], [3] ;

(*j*) provide for the testing at or near those places of petroleum so produced [2] ;

(*k*) prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum so produced which has not satisfied the prescribed test ;

(*l*) prescribe the authority by which licenses to possess or to transport petroleum may be granted ;

(*m*) fix the fee to be charged for any such license ;

(*n*) limit the quantity of petroleum to be covered by any such license ;

(*o*) prescribe the conditions which may be inserted in any such license ;

(*p*) limit the time during which any such license is to continue in force ;

(*q*) provide for the renewal of any such license ;

(*r*) provide for the nature and situation of the premises in respect of which licenses to possess petroleum may be granted, the inspection of premises so licensed and the testing of petroleum found thereon ; and

(*s*) prescribe the manner in which the petroleum covered by a license to transport is to be packed, the mode and time of its transit, the route by which it is to be taken, and its stoppage and inspection during transit.

Procedure after petroleum has been discharged or landed,

10. (*1*) Petroleum discharged into boats or landed in accordance with rules made under section 9, sub-section (*2*), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer [3] appointed by the Local Government in this behalf and the officer has given a certificate that the petroleum is not dangerous petroleum.

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[1] For notification issued under this clause by (1) the Government of Burma, *see* Burma Gazette, 1908, Pt. I, p. 47 ; (2) the Chief Commissioner of Assam, *see* Assam Gazette, 1903, Pt. II, p. 479.

[2] For rules as to refining and testing petroleum produced in Assam, *see* Assam Gazette, 1903, Pt. II, p. 414; in Burma, *see* Burma Gazette, 1908, Pt. I, p. 47.

[3] For officer appointed by (1) Government of Bengal, *see* Calcutta Gazette, 1903, Pt. I, p. 937 ; (2) Assam, *see* Assam Gazette, 1903, Pt. I, p. 474 ; (3) Burma, *see* Burma Gazette, 1908, Pt. I, p. 448 ; (4) Madras, *see* Mad. R. and O.

(*2*) If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

(*a*) to rectify the petroleum,

(*b*) to apply for a license to import the petroleum as dangerous petroleum, or

(*c*) to re-export the petroleum.

(*3*) If the consignee does not, within the time fixed under sub-section (*2*), avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government may direct.

(*4*) Notwithstanding anything in the foregoing provisions of this section, the Local Government, in its discretion, may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

11. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act :

Provided that the Local Government may, by notification in the local official Gazette, exempt from the operation of this section petroleum when transported in such particular manner and under such particular conditions as may be set forth in the notification.

Power to inspect and require dealer to sell samples.

12. Any officer specially authorized[1] in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be given when officer proposes to test samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample, or cause it to be tested, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Certificate as to result of testing.

14. On any such testing if it appears to the officer or other person so testing that the petroleum from which the sample has been taken, is or is not dangerous petroleum, the officer or other person may certify the fact; and

[1] *See* Gazette of India, 1905, Pt. II, p. 246; Mad. R. and. O.; Pom. Govt. Gazette, 1907, Pt. I, pp. 34, 614; Burma Gazette, 1909, Pt. I, p. 75.

the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be proof of the fact stated therein, and a certified copy of the certificate shall be given, free of charge, to the dealer at his request.

Penalties.

Penalty for illegal importation, possession or transport of petroleum or for refusal to comply with section 12.

15. Whoever—

(*a*) in contravention of this Act or of any of the rules thereunder, imports, possesses or transports any petroleum ; or

(*b*) otherwise contravenes any such rules as aforesaid ; or

(*c*) breaks any condition contained in a license granted under this Act ; or

(*d*) being a dealer in petroleum, refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for contravention of section 7.

16. Whoever keeps, sells or exposes for sale dangerous petroleum in vessels not labelled as prescribed by section 7 shall be punishable with fine which may extend to five hundred rupees.

Confiscation of petroleum.

17. In any case in which an offence under section 15, clause (*a*), clause (*b*) or clause (*c*), or section 16 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

18. The criminal jurisdiction under this Act shall, in the Presidency-towns, be exercised by a Presidency Magistrate, and, elsewhere, by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

Model test-apparatus.

19. A model of the apparatus for testing petroleum under this Act shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

Verification of test-apparatus.

20. (*1*) The Chemical Examiner shall, on payment of the prescribed fee (if any), compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(*2*) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (*1*), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number and with the date of the verification, and shall further give a certificate in writing under his hand, in the prescribed form,[1] to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(*3*) A certificate granted under this section shall, until the contrary is proved, be proof of the matters stated therein.

(*4*) The Chemical Examiner shall keep a register, in the prescribed form, of all certificates granted under this section.

(*5*) Subject to the payment of the prescribed fees (if any), the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to exempt petroleum from operation of Act.

21. The Local Government may, by notification in the local official Gazette, exempt[2] from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to apply Act to other substances.

22. (*1*) The Governor General in Council may, by notification[3] in the Gazette of India, apply the whole or any portion of this Act to any substance, other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 11, the quantities of the substances to which those sections shall apply.

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[1] For revised form of certificate, *see* Gazette of India, 1899, Pt. I, p. 1102; Gen. R. and O.

[2] For instance of notification under this section exempting shale oil, *see* Bombay Government Gazette, 1899, Pt. I, p. 1154; for exemptions by the Government of Madras, *see* Mad. R. and O.

[3] The provisions of ss. 5, 8 to 17, 18, 23 and 24 have been applied, under this section, to carbide of calcium, *see* Notification No. 101—10, dated 4th January 1907, Gazette of India, 1907, Pt. I, p. 15.

(*2*) When the whole or any portion of this Act has been applied as aforesaid to any substance other than petroleum, the provisions so applied shall be construed with all necessary modifications and shall have effect as if such other substance had been included in the definition of petroleum.

Power to limit operation of enactments, relating to possession or transport of petroleum, in municipalities.

23. The Governor General in Council may, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to local authorities in any local area or to any particular local authority, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Previous publication, etc., of rules.

24. (*1*) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication in such manner[1] as the Governor General in Council may, by notification in the Gazette of India, direct.

(*2*) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

Repeal.

[**25.** The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

TESTING.

(*See section 3.*)

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts :—

(1) the oil-cup ;
(2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame ;
(3) the water-bath or heating vessel ;
(4) the tripod stand with jacket and spirit-lamp for heating the water-bath ;
(5) the thermometer for indicating the temperature of the oil in the oil-cup ;
(6) the thermometer for indicating the temperature of the water in the water-bath ;
(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;
(8) the dropping bottle or *pipette* for replenishing the test-lamp ; and
(9) a barometer standardised at the Meteorological Office of the Province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

[1] For rules as to the manner of publication, *see* Gazette of India, 1899, Pt. I, p. 244.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened, by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two: consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the sample and preparing it for testing.

1. Drawing the sample.—In all cases the testing officer or some person duly authorized by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing wax worked into it. The other bottle may be either stoppered or corked.

2. Preparing the sample for testing.—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1. Preparing the water-bath.—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. Preparing the test-lamp.—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. Filling the oil-cup.—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. Application of the test.—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched and when the temperature has reached 56° Fahrenheit, the clockwork is set in motion by pressing the trigger.

If no flash takes place, the clockwork is at once rewound and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

If, however, a flash has occurred at or below 60° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2° and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47°, and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit as the case may be has been reached. If during the operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at *2* without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. Correction for atmospheric pressure.—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose

of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule giving the flashing point of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner :—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches ; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

[1] [6. Application of the test to viscous fluid or preparations, such as solutions of india-rubber in mineral naptha, or thick paint made with that material.

About a teaspoonful of the substance to be tested is placed in the cup, and the cover fitted with a thermometer is put on.

The cup thus prepared for the test is then cooled down until the thermometer indicates a temperature of 50° Fahrenheit. This may be accomplished either by placing the prepared cup in a refrigerator or by immersing it up to its projecting collar in water which is maintained at a sufficiently low temperature until the result specified has been obtained.

The prepared cup thus cooled is then transferred to the water-bath, the temperature of which has previously been raised to 78° Fahrenheit. (The scale of the thermometer in the water-bath should range from 60° to 180° Fahrenheit.)

The test is then applied as described in section 4 of this part. If no flash has taken place when the temperature in the cup has reached 75°, the test need not be continued.

The temperature at which the flash occurs is the observed flashing point of the substance and subject to correction of atmospheric pressure as prescribed in the Act, is the true flashing point.]

IV.—Directions for determining the flashing point of petroleum which is not fluid at ordinary temperatures.

1. Nature of the test-apparatus.—The instrument employed is the Abel-Pensky petroleum testing apparatus, fitted with an additional thermometer to indicate the temperature of the oil in close proximity to the walls of the cup. This thermometer has a cylindrical bulb, $\frac{7}{8}$ inch in length and $\frac{3}{16}$ inch in diameter. It is scaled from 45° to 165° Fahrenheit, 10° on the scale occupying $\frac{3}{8}$ inch. The thermometer is held vertically in a socket attached to the cover of the oil-cup in such a position that the bulb is $\frac{1}{10}$ inch from the side of the cup.

(The thermometer can be removed and the orifice which is provided for it closed by means of an india-rubber plug, if the apparatus is required for testing petroleum in the ordinary way.)

2. Directions for preparing the sample for testing.—About ten fluid ounces of the oil are placed in a pint-flask, the mouth of which is then closed with an india-rubber stopper and the sample is liquefied by placing the flask in a water-bath, the temperature of which is only raised sufficiently high to liquefy the oil.

3. Directions for preparing and using the test-apparatus.—The water-bath and test-lamp are to be prepared in the manner prescribed in Part III of this Schedule. The oil-cup is to be filled with the liquefied oil, and the cover (into which both thermometers are to be previously inserted) placed on it, care being taken that the bulb of the additional thermometer is not brought into contact with the bracket-gauge fixed inside the cup. The oil-cup is then to be placed in a refrigerator, or plunged up to the projecting collar in water maintained at sufficiently low temperature, until both thermometers indicate the temperature at which the testing of petroleum is directed in Part III of this Schedule to be commenced. The oil-cup is then to be removed, wiped dry and placed in the water-bath, and the testing effected in the manner prescribed in Part III of this Schedule, the temperature indicated by the additional (vertical) thermometer alone being noted, and the average of three determinations, duly corrected for atmospheric pressure, being recorded as the flashing point of the sample, provided that no greater difference than 4° Fahrenheit exists between any two of such results.

[1] This paragraph was added by Notification No. 928 (J), dated the 28th June 1900, *see* Gazette of India, 1900 Pt. I, p. 403.

Table for correction of Flashing Points indicated by the test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in inches.																			
27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
Flashing Point in Degrees Fahrenheit.																				
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 25.*)

Year.	Number.	Short title.	Extent of repeal.
1886	XII	The Petroleum Act, 1886 . .	The whole.
1890	XIV	The Petroleum Act (1886) Amendment Act, 1890.	Ditto.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XII of 1886.
1897	XIV	The Indian Short Titles Act, 1897 .	So much as relates to Act XIV of 1890.
1898	VII	The Petroleum Act, 1898 . .	The whole.

ACT No. IX OF 1899.[1]

[*3rd March 1899.*]

An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Arbitration Act, 1899.

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force on the first day of July 1899.

Application.

2. Subject to the provisions of section 23, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town :

Provided that the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare this Act applicable in any other local area[2] as if it were a Presidency-town.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 286; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 31 ; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 366, and *ibid*, 1899, Pt. V I, pp. 17, 52 and 60.

[2] The Act has been declared applicable to the town of Karachi, *see* Bombay Government Gazette, 1899, Pt. I, p. 1127.

Exclusion of certain enactments in certain cases where Act applies.

3. The last thirty-seven words of section 21 of the Specific Relief Act,[1] 1877, and sections 523 to 526 of the Code of Civil Procedure[2] shall not apply to any submission or arbitration to which the provisions of the Act for the time being apply : I of 1877. XIV of 1882.

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made :

Provided also that nothing in this Act shall affect the provisions of the Indian Companies Act, 1882,[3] relating to arbitration. VI of 1882.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " the Court " means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge ; and

(*b*) " submission " means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (*1*) In any of the following cases :

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator ;

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[1] General Acts, Vol. II.

[2] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. II, paragraphs 17-21, General Acts, Vol. VI.

[3] General Acts, Vol. III.

(*b*) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(*c*) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

(*d*) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(*2*) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment made in pursuance of clause (*b*) of this section.

Powers of arbitrator.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

(*a*) have power to administer oaths to the parties and witnesses appearing;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved; and

(*c*) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (*1*) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(*2*) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(*3*) Where the arbitrators or umpire state a special case under section 10, clause (*b*), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to remit award.

13. (*1*) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(*2*) Where an award is remitted under sub-section (*1*), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree.

15. (*1*) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(*2*) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to remove arbitrator or umpire.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

Costs.

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit.

Forms.

18. The forms set forth in the Second Schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

Power to stay proceedings where there is a submission.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Power for High Court to make rules.

20. The High Court may make rules[1] consistent with this Act as to—

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(*c*) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;

(*d*) the staying of any suit or proceeding in contraventioof a submission to arbitration; and,

(*e*) generally, all proceedings in Court under this Act.

Amendment of section 21, Act I, 1877.

I of 1877.

21. In section 21 of the Specific Relief Act, 1877,[2] after the words "Code of Civil Procedure" the words and figures "and the Indian Arbitration Act, 1899," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

Crown to be bound.

22. The provisions of this Act shall be binding on the Crown.

Special provision as to

23.[3] (*1*) This Act shall apply within the local limits of the ordinary civil

[1] For rules made by (1) the High Court, Calcutta, Original Side, under this Act, *see* Gazette of India, 1900. Pt. II, p. 1029; (2) the High Court of Bombay, *see* Bombay Gazette, 1901, Pt. I, p. 1734; (3) the Chief Court Lower Burma, *see* Burma Gazette, 1904, Pt. IV, p. 377; (4) the Sadr Court of Sind, *see* Sind Gazette, 1902, Pt. I, p. 711.

[2] General Acts, Vol. III.

[3] S. 23 was substituted by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and Sch. I, Bur. Code.

application of Act to Rangoon.

jurisdiction of the Chief Court of Lower Burma in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits.

(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town.

THE FIRST SCHEDULE.

(*See section 6.*)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

THE SECOND SCHEDULE.

(*See section 18.*)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the 189

(*The Second Schedule.—Forms.*)

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of C. D. of concerning

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the *189*

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas, by an agreement in writing, dated the day of 18 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the *189* .

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (*or* above) submission until the day of 189 .

(*Signed*) X. Y.,
Arbitrator.

Dated the *189* .

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, clause (*b*), of the said Act, stated for the opinion of the * :—

* Here specify the Court.

(*Here state the facts concisely in numbered paragraphs.*)

The questions of law for the opinion of the said Court are :—

First, whether———

Secondly, whether———

(*Signed*) X. Y.,
Dated the 189 . *Arbitrator.*

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas in pursuance of an agreement in writing dated the day of 189 , and made between A. B. of and C. D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning

(*or as the case may be*) ;

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows :—

I award—

(1) that———

(2) that———

(*Signed*) X. Y.,
Dated the , 189 . *Arbitrator.*

ACT No. X OF 1899.[1]

An Act to amend the law relating to Carriers.

WHEREAS it is expedient to amend the law relating to carriers ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Carriers Act, 1899 ; and

(*2*) It shall come into force on the first day of May 1899.

[1] For Statement of Objects and Rasons, *see* Gazette of India, 1898, Pt. V, p. 355 ; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 37 ; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 395 ; *ibid*, 1899, Pt. VI. pp. 25, 52 and 59.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

III of 1865. 2. After section 9 of the Carriers Act, 1865, the following section shall be added, namely :— Addition of new section after section 9, Act III, 1865.

"10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff." Notice of loss or injury to be given within six months.

3. [*Amendment of Schedule II, Act XV of 1877.*] *Repealed by the Indian Limitation Act, 1908 (IX of 1908).*[1]

ACT No. XI OF 1899.[2]

[*10th March 1899.*]

An Act to further named the Court-fees Act, 1870.[3]

VII of 1870. WHEREAS it is expedient to further amend the Court-fees Act, 1870 [3]; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Court-fees Amendment Act, 1899; and Short title and commencement.
(*2*) It shall come into force at once.

VII of 1870. 2. After section 19G of the Court-fees Act, 1870, the following sections shall be added, namely :— Addition of new sections after section 19 G, Act VII, 1870.

"19H. (*1*) Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector. Notice of applications for probate or letters of administration to be given to Revenue-authorities, and procedure thereon.

(*2*) Where such an application as aforesaid is made to a [4]High Court the High Court shall cause notice of the application to be given to the [5]Chief Controlling Revenue-authority of the Province.

(*3*) The Collector, within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of

[1] General Acts, Vol. VI.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 111; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 41; for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 2 and 98; *ibid*, 1899, Pt. VI, pp. 2, 60 and 73.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[3] General Acts, Vol. II.

[4] In the North-West Frontier Province this reference to the High Court is to be construed as referring to the Judical Commissioner, *see* s. 6 (*1*) (*c*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punj. Code.

[5] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of Reg. VII of 1901, *ibid*.

any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(*4*) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, 1865, or, as the case may be, by section 98 of the Probate and Administration Act, 1881. X of 1865. V of 1881.

(*5*) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(*6*) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(*7*) The finding of the Court recorded under sub-section (*5*) shall be final, but shall not bar the entertainment and disposal by the [3] Chief Controlling Revenue-authority of any application under section 19E.

(*8*) The Local Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (*3*).

Payment of court-fee in respect of probates and letters of administration.

"19I. (*1*) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant

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[1] General Acts, Vol. I.
[2] General Acts, Vol. III.
[3] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Law and Justice Regulation, 1901 (VII of 1901), Punj. Code.

until the petitioner has filed in the Court a valuation of the property in the form set forth in the Third Schedule, and the Court is satisfied that the fee mentioned in No. 11 of the First Schedule has been paid on such valuation.

(*2*) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (*4*).

Recovery of penalties, etc.

"19J. (*1*) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (*6*), and any penalty or forfeiture under section 19G may, on the certificate of the [1] Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.

(*2*) The [1] Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.

Sections 6 and 28 not to apply to probates or letters of administration.

"19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration."

VII of 1870.

Addition of schedule to Act VII, 1870.

3. To the Court-fees Act, 1870,[2] the following schedule shall be added, namely :—

SCHEUDLE III.

(*See section 19 I.*)

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

Re Probate of the Will of (*or Administration of*
the property and credits of), *deceased.*

I { solemnly affirm / make oath }

and say that I am the executor (or one of the executors or one of the next of kin) of , deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the abovenamed deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of

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[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority," read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Law and Justice Regulation, 1901 (VII of 1901), Punj. Code.

[2] General Acts, Vol. II.

ANNEXURE A,	Rs.	A.	P.
VALUATION of THE MOVEABLE AND IMMOVEABLE PROPERTY OF , DECEASED.			
Cash in the house and at the banks, household goods, wearing apparel, books, plate, jewels, etc.			
(State estimated value according to best of Executor's or Administrator's belief.)			
Property in Government securities transferable at the Public Debt Office.			
(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)			
Immoveable property, consisting of			
(State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.)			
Leasehold property			
(If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)			
Property in public companies			
(State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.)			
Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.			
(State the amount of the whole; also the interest separately, calculating it to the time of making the application.)			
Book debts			
(Other than bad.)			
Stock in trade			
(State the estimated value, if any.)			
Other property not comprised under the foregoing heads . . .			
(State the estimated value, if any.)			
TOTAL .			
Deduct amount shewn in Annexure B not subject to duty . .			
NET TOTAL .			

ANNEXURE B.

SCHEDULE OF DEBTS, ETC.

	Rs.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses			
Amount of mortgage incumbrances			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty			
TOTAL .			

VI of 1889. **4.** Section 20 of the Probate and Administration Act,[1] 1889, is hereby repealed. Repeal.

ACT No. XII OF 1899.[2]

[*10th March 1899.*]

An Act to amend the law relating to the forgery of currency-notes and bank-notes.

WHEREAS it is expedient to amend the law relating to the forgery of currency-notes and bank-notes; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Currency-Notes Forgery Act, 1899; and Short title and commencement.

(*2*) It shall come into force at once.

XLV of 1860. **2.** After section 489 of the Indian Penal Code[3] the following sections shall be added, namely :— Addition of new sections after section 489, Act XLV, 1860.

"Of Currency-Notes and Bank-Notes.

"489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Counterfeiting currency notes or bank-notes.

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[1] General Acts, Vol. IV.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 347; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 47; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 370; *ibid*, 1899, Pt. VI, pp. 24, 68 and 84.

This Act has been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[3] General Acts, Vol. I.

"*Explanation.*—For the purposes of this section and of sections 489B, 489C and 489D, the expression "bank-note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

Using as genuine forged or counterfeit currency-notes or bank-notes.

"489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of forged or counterfeit currency-notes or bank-notes.

"489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

"489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Addition to Schedule II, Act V, 1898.

3. In the Code of Criminal Procedure, 1898,[1] Schedule II, after the entries relating to section 489 of the Indian Penal Code the following shall be added, namely :— V of 1898. XLV of 1860.

"*Of Currency-Notes and Bank-Notes.*

489A .	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489B .	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
489C .	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D .	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto .	Ditto .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto."

[1] *Supra.*

ACT No. XIII OF 1899.[1]

[*20th March 1899.*]

An Act to consolidate and amend the law relating to Glanders and Farcy.

WHEREAS it is expedient to consolidate and amend the law relating to glanders and farcy ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Glanders and Farcy Act, 1899.

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force at once.

Definition of "diseased."

2. (*1*) In this Act, unless there is anything repugnant in the subject or context, "diseased" means affected with glanders or farcy or any other dangerous epidemic disease among horses which the Governor General in Council may, by [2]notification in the Gazette of India, specify in this behalf [3][either generally or in respect of any local area].

(*2*) The provisions of this Act relating to horses shall apply also to asses and mules.

Application of Act to local areas by Local Government.

3. The Local Government may, by notification in the local official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the province.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 353 ; for Report of the Select Committee, *see ibid*, p. 51 ; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 394 ; *ibid*, 1899, Pt. VI, pp. 25, 86 and 119.

This Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, *see* Gazette of India, 1899, Pt. II, p. 941.

[2] For notification under this sub-section as amended by Act XI of 1901, as regards the Naini Tal, Dehra Dun and Saharanpur Districts, *see* Gazette of India, 1902, Pt. I, p. 30 ;
Ditto Ditto as to "Surra" for Bombay City, *see ibid*, 1904, Pt. I, p. 948.

For notification declaring that "diseased" includes affected with "Lymphangitis Epizootica," *see* Gazette of India, 1902, Pt. I, p. 510 ;
Ditto Ditto Ditto as to Poona Cantonment, *see ibid*, 1904, Pt. I, p. 948 ;
Ditto Ditto Ditto as to certain local areas both as regards this disease and Surra, *see* Gazette of India, 1906, Pt. I, p. 205.

[3] These words were added by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (*1*), *infra*.

[4] The Act has been applied, by notification under section 3, to—
(*1*) the district of the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 914;
(*2*) the Dacca Municipality, *see ibid*, 1900, Pt. I, p. 1083;
(*3*) the Patna Municipality, *see ibid*, 1901, Pt. I, p. 1506;
(*4*) the Murshedabad District, *see ibid*, 1901, Pt. I, p. 1507;
(*5*) the Gya District, *see* Calcutta Gazette, 1903, Pt. I. p, 21 ; other districts, *see ibid*, 1904, Pt. I, p. 1358 ;
(*6*) the Port of Calcutta, the River Hughli and the channels leading to the Port, *see* Calcutta Gazette, 1905, Pt. I, p. 1717 ;
(*7*) the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I p. 1415

Local Government to appoint Inspectors.

4. (*1*) When this Act has been so applied to a local area, the Local Government may, by notification in the local official Gazette, appoint[1] such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.[2] XLV of 1860.

Power of entry and search.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the Local Government may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of seizure.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Horse to be examined by Veterinary Practitioner.

7. (*1*) On any such seizure as aforesaid, the Inspector shall cause the horse

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(*8*) the settlement of Aden and its dependencies (for the time being), inclusive of the villages of Sheikh Othman, Imad and Hiswa, the island of Perim and Little Aden, *see ibid*, 1907, Pt. I, p. 131 ;
(*9*) the City of Madras, *see* Fort St. George Gazette, 1906, Pt. I, p. 608;
(*10*) certain Taluks in the Madras District, *see* Fort St. George Gazette, 1901, Pt. I, p. 269 ;
(*11*) the whole of the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces, *see* now the United Provinces Designation Act, 1902 (VII of 1902, s. 2, *infra*), *see* North-Western Provinces Gazette, 1899, Pt. I, p. 394 ;
(*12*) Rangoon, *see* Burma Gazette, 1900, Pt. I, p. 597 ;
(*13*) the Toungoo Municipality, *see* Burma Gazette, 1902, Pt I, p. 209 ;
(*14*) the whole of Burma excluding the Municipality and Cantonment of Rangoon and the Shan States, except s. 10, *see* Burma Gazette, 1901, Pt. I, p. 625 ; s. 10 was extended to Maulmain ; *ibid*, 1900, Pt. I, p. 225.
(*15*) the whole of the Central Provinces, except s. 10, which is extended only to the Cantonments of Saugor, Kamptee and Jubbulpore and the Municipalities of Jubbulpore, Saugor and Nagpur, *see* Central Provinces Gazette, 1904, Pt. III, pp. 85 and 113.

[1] For instance of Notifications under this section as regards :—
(*1*) Ajmer-Merwara, *see* Gazette of India, 1906, Pt. II, p. 746;
(*2*) Bengal, *see* Calcutta Gazette, 1900, Pt. I, p. 1084 ; *ibid*, 1901, Pt. I, p. 1507 ; *ibid*, 1903, Pt. I, p. 1273 ; *ibid*, 1904, Pt. I, p. 1358 ;
(*3*) Bombay, *see* Bombay Government Gazette, 1900, Pt. I, p. 2554 ; *ibid*, 1901, Pt. I, p. 1448 ; *ibid*, 1904, Pt. I, p. 193 ;
(*4*) British Baluchistan, *see* Gazette of India, 1903, Pt. I, p. 1182 ;
(*5*) Burma, *see* Burma Gazette, 1908, Pt. I, p. 52 ;
(*6*) Central Provinces, *see* Central Provinces Gazette, 1904, Pt. III, pp. 85 and 113 ;
(*7*) Eastern Bengal and Assam, *see* Eastern Bengal and Assam Gazette, 1907, Pt. I, pp. 4078-9 ;
(*8*) Madras, *see* Fort St. George Gazette, 1906, Pt. I, p. 608;
(*9*) Punjab, *see* Punjab Gazette, 1906, Pt. I, p. 746;
(*10*) the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 915;
(*11*) United Provinces, *see* North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 81 ; *ibid*, United Provinces Gazette, 1903, Pt. I, pp. 773 and 802.

[2] General Acts, Vol. I.

seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may[1] appoint in this behalf :

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(*2*) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

Horse to be destroyed if found diseased : otherwise restored.

8. (*1*) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed :

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(*2*) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, etc.

9. (*1*) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

(*2*) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the Local Government may[2] appoint in this behalf.

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[1] For notification appointing Veterinary Practitioners for —

(*1*) Ajmer-Merwara, *see* Gazette of India, 1906, Pt. II, p. 746 ;
(*2*) Bengal, *see* Calcutta Gazette, 1904, Pt. I, p. 1359 ; *ibid*, 1906, Pt. I, pp. 176 and 177 ;
(*3*) the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, p. 1418 ; *ibid*, 1903, Pt. I, pp. 1391,1412 ; Bombay City and Poona and Ahmednagar Districts, *see ibid*, 1904, Pt. I, p. 193 ;
(*4*) Burma, *see* Burma Gazette, 1908, Pt. I, p. 52 ;
(*5*) Central Provinces, *see* Central Provinces Gazette, 1904, Pt. III, pp. 86 and 113 ;
(*6*) Eastern Bengal and Assam, *see* Eastern Bengal and Assam Gazette, 1907, Pt. I, p. 4079 ;
(*7*) Punjab, *see* Punjab Gazette, 1906, Pt. I, p. 746 ;
(*8*) the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 915 ;
(*9*) United Provinces, *see* United Provinces Gazette, 1903, Pt. I, p. 802.

[2] For officers appointed under section 10 for the Bombay Presidency, *see* Bombay Government Gazette, 1900, Pt. I, p. 2551 ; *ibid*, 1901, Pt. I, p. 1415 ; for the United Provinces, *see* U. P. R. and O.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

Vexatious entries, searches and seizures.

12. (*1*) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9, or for moving horse contrary to section 11.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. (*1*) The Local Government may make [1]rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

(*a*) regulate entries, searches and seizures by Inspectors under this Act;

(*b*) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine;

(*c*) regulate the destruction or treatment, as the case may be, of horses

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[1] For rules made for—
(*1*) Ajmer-Merwara, *see* Gazette of India, 1906, Pt. II, p. 746;
(*2*) Bengal, *see* Calcutta Gazette, 1900, Pt. I, p. 915; *ibid*, 1905, Pt. I, pp. 1717 and 1722; *ibid*, 1907, Pt. I, p. 184;
(*3*) Bombay City and Harbour, *see* Bombay Government Gazette, 1899, Pt. I, pp. 1799 and 1802; and *ibid*, 1902, Pt. I, p. 1996; *ibid*, 1903, Pt. I, p. 119;
(*4*) Bombay Presidency proper, *see* Bombay Government Gazette, 1901, Pt. I, p. 1415; Sind and Karachi, *see* Sind Official Gazette, 1900, Pt. I, pp. 173 and 174;
(*5*) Burma, *see* Burma Gazette, 1902, Pt. I, p. 291; *ibid*, 1907, Pt. I, p. 90;
(*6*) the Central Provinces, *see* Central Provinces Gazette, 1904, Pt. III, pp. 86 and 113;
(*7*) Madras, *see* Fort St. George Gazette, 1906, Pt. I, p. 608;
(*8*) Punjab, *see* Punj. R. and O.; as to horses affected with Lymphangitis Epizootica and Surra, Punjab Gazette, 1906, Pt. I, p. 500;
(*9*) the United Provinces, *see* North-Western Provinces and Oudh Gazette, 1900, Pt. I, p. 155; *see* also, as regards "Surra," United Provinces Gazette, 1902, Pt. I, pp. 254 and 299.

certified under section 8 to be diseased, and the disposal of the carcases of diseased horses;

(*d*) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; and

(*e*) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(*3*) All rules under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

(*4*) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Appointment of same person to be both Inspector and Veterinary Practitioner.

15. Any Veterinary Practitioner may be appointed by the [1]Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Protection to persons acting under Act.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Repeal.

17. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 17.*)

Year.	No.	Short Title.	Extent of Repeal.
1879	XX	The Glanders and Farcy Act, 1879	The whole Act.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XX of 1879.
1896	XV	The Glanders and Farcy Act (1879) Amendment Act, 1896.	The whole Act.
1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XV of 1896.

[1] For notification issued by the Government of Madras under this section, *see* Fort St. George Gazette, 1906, Pt. I, p. 608.
For Burma, *see* Burma Gazette, 1908, Pt. I, p. 52.

ACT No. XIV OF 1899.[1]

[*20th March 1899.*]

An Act to further amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to further amend the Indian Tariff Act, 1894; VIII of 1894.
It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Tariff Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section 8A after section 8, Act VIII, 1894.

2. After section 8 of the Indian Tariff Act, 1894,[2] the following section shall be added, namely :— VIII of 1894.

Additional import-duty on bounty fed articles.

[3]"8A. (*1*) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation therefrom of any article, and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose[4] an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

"(*2*) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules[5] for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (*1*)."

Act not to apply in certain cases.

3. This Act shall not apply to any imported article the bill of lading for which was signed and given before the commencement of this Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 55; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 86 and 119.

The Act has been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code.

[2] General Acts, Vol. IV.

[3] This section has been amended by Act XII of 1903, s. 2, *infra*.

[4] For notification imposing such duty, *see* No. 1327-S. R., dated 20th March 1899, Gazette of India, 1899, Pt. I, p. 190; No. 3559-S. R., dated 3rd August 1899, *see ibid*, Pt. I, p. 721; No. 2635-S. R., dated 9th June 1899, *see ibid*, 1899, Pt. I, p. 461; also *see ibid*, pp. 704, 869, 1067; *ibid*, 1900, Pt. I, pp. 293 and 665; *ibid*, 1901, Pt. I, pp. 298 and 399; *ibid*, 1902, Pt. I, p. 877. As to the refund of excess duty, *see* Gazette of India, 1900, Pt. I, p. 526.

[5] For rules under this sub-section for the identification of sugar chargeable with additional or special duty and for the assessment and collection of the duty, *see* notification No. 4439-S. R., dated the 14th August, 1902, Gazette of India, 1902, Pt. I, p. 696.

ACT No. XVIII OF 1899.[1]

[*14th July 1899.*]

An Act to amend the Land Improvement Loans Act, 1883.

XIX of 1883.

WHEREAS it is expedient to amend the Land Improvement Loans Act, 1883[2]; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Land Improvement Loans (Amendment) Act, 1899; and

(*2*) It shall come into force at once.

XIX of 1883.

Amendment, with retrospective effect, of section 6, Act XIX, 1883.

2. In section 6, sub-section (*1*), of the Land Improvement Loans Act, 1883, for the words "from the date of the actual advance of the last instalment", the words "from the date of the advance of the last instalment actually paid" shall be substituted and shall be deemed to have been substituted with effect from the commencement of the said Act.

ACT No. XIX OF 1899[3].

[*28th July 1899.*]

An Act to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act.

44 & 45 Vict., c. 58.

WHEREAS it is provided by section 169 of the Army Act[4] that the Governor General in Council may declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent to any sum of British currency mentioned therein;

And whereas it is expedient, in exercise of the power so conferred, to provide for the conversion into British Indian currency of sums expressed in British currency in the said Act;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Currency Conversion (Army * * [5]) Act, 1899.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 77; for Proceedings in Council, *see ibid*, Pt. VI, pp. 186 and 188.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), Ben. Code, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[2] General Acts, Vol. III.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 85; for Proceedings in Council, *see ibid*, Pt. VI, pp. 189 and 191.

[4] Coll. Stat., Vol. II.

[5] The word "Annual" was repealed by Act VII of 1900, s. 2, *infra*.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Rate of exchange fixed for calculating the equivalent in British Indian currency of sums of British currency mentioned in the Army Act.

2.[1] For the purposes of the Army Act or of any similar Act for the time being in force, fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency, and any sum of British currency mentioned in the said Act or in any similar Act as aforesaid shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange. 44 & 45 Vict., c. 58.

3. [*Duration of Act.*] *Rep. by Act VII of 1900, s. 2.*

ACT No. XX OF 1899.[2]

[*1st September 1899*]

An Act further to amend the Presidency Banks Act, 1876.

WHEREAS it is expedient further to amend the Presidency Banks Act[3], 1876; It is hereby enacted as follows:— XI of 1876.

Short title and commencement.

1. (1) This Act may be called the Presidency Banks Act, 1899; and

(2) It shall come into force at once.

Further amendment of section 36, Act XI, 1876.

2. To section 36, clause (*a*), sub-clause (*4*), of the Presidency Banks Act[3], 1876, as amended by section 4 of the Presidency Banks Act, 1879,[4] the following shall be added, namely:— XI of 1876. V of 1879.

"or the Trustees for the improvement of the City of Bombay under the authority of the City of Bombay Improvement Act, 1898." Bombay Act IV of 1898.

ACT XXIII OF 1899.[5]

[*27th September 1899.*]

An Act to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India.

WHEREAS there are in British India Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland;

And whereas it is expedient that such Kirk Sessions and any others

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[1] This section was substituted by Act VII of 1900, s. 1.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 116; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 196 and 199.

[3] General Acts, Vol. II.

[4] General Acts, Vol. III.

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 79 for Proceedings in Council, *see ibid*, Pt. VI, pp. 181, 212 and 213.

which may hereafter be so constituted, should be incorporated with the powers hereinafter provided ;—

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Church of Scotland Kirk Sessions Act, 1899 ;

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force at once.

Scotch Kirk Sessions to be bodies corporate.

2. (*1*) Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland, is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal.

(*2*) A notification by the Governor General in Council in the Gazette of India that a Kirk Session has been duly constituted [1] in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted.

Power to hold and dispose of property.

3. (*1*) Every Kirk Session constituted as aforesaid shall, as a body corporate, have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation for which it has been, or may hereafter be, constituted, or of any trust which may have been, or may hereafter be, accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(*2*) The signature of the Moderator and Treasurer or Session-clerk for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

ACT No. I OF 1900.

[*19th January 1900.*]

An Act to amend the Indian Articles of War.

V of 1869.

WHEREAS it is expedient to amend the Indian Articles of War [2] ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Articles of War Amendment Act, 1900 ; and

[1] For notification declaring the Kirk Sessions at Calcutta, Madras, Bombay and Allahabad to be duly constituted, *see* Gazette of India, 1900, Pt. I, p. 484; for similar notifications in respect of the Kirk Session at Simla and the Kirk Session at Poona, *see ibid*, 1904, Pt. I., p. 831 ; and *ibid*, 1905, Pt. I, p. 706, respectively.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 179 ; for Proceedings in Council, *see ibid*, 1899, Pt. VI, p. 242 ; and *ibid*, 1900, Pt. VI, p. 10.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), Ben. Code ; *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[3] General Acts, Vol. II.

(*2*) It shall come into force at once.

Substitution of new sub-articles for sub-article (*2*) of article 4 Act V, 1869.

2. For sub-article (*2*) of article 4 of the said Indian Articles of War, V of 1869. the following sub-articles shall be substituted, namely :—

" (*2*) Unattested recruits who, in the opinion of their Commanding Officer, are not likely to make good soldiers, and persons attested under these Articles who are serving in a cavalry corps and who have, in the opinion of their Commanding Officer, failed to become good riders, shall be liable to discharge from the service by order of the Commanding Officer of the corps or department to which they may belong :

Provided that, in the case of persons attested under these Articles, this liability shall cease on the completion of their third year of service.

(*3*) Every person so dismissed or discharged shall forfeit all claim to pension. "

ACT No. II OF 1900.[1]

[*2nd February 1900.*]

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882[2] ; IV of 1882. It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Transfer of Property Act, 1900 ; and

(*2*) It shall come into force at once.

Addition to section 3, Act IV, 1882.

2. In section 3 of the Transfer of Property Act, 1882,[2] after the IV of 1882. definition of " attached to the earth " the following shall be inserted, namely :—

" ' Actionable claim' means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."

3. In section 6 of the same Act—

(i) in clause (*e*) the words " for compensation for a fraud or for harm illegally caused " shall be omitted ; and

Amendment of section 6, Act IV, 1882.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 90 ; for Report of the Select Committee, *see ibid*, 1900, p. 17 ; for Proceedings in Council, *see ibid*, 1899, Pt VI, pp. 190 and 242 ; *ibid*, 1900, p. 19.

[2] General Acts, Vol. III,

(ii) in clause (*h*) the words "for an illegal purpose" shall be omitted and instead thereof the words "for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act, 1872,[1]" shall be inserted.

IX of 1872.

4. For Chapter VIII of the same Act, the following Chapter shall be substituted, namely :— Substitution of new Chapter for Chapter VIII, Act IV, 1882.

"CHAPTER VIII.

"OF TRANSFERS OF ACTIONABLE CLAIMS.

"130. (*1*) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not: Transfer of actionable claim.

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (*1*) of section 130 and to the provisions of section 132.

"131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee. Notice to be in writing, signed.

"132. The transferee of an actionable claim shall take it subject to all Liability of transferee of actionable claim,

[1] General Acts, Vol. II.

the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Illustrations.

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

Warranty of solvency of debtor.

"133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged debt.

"134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

Assignment of rights under marine or fire policy of insurance.

"135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Incapacity of officers connected with Courts of Justice.

"136. No Judge, legal practitioner or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid."

Saving of negotiable instruments, etc.

"137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

"*Explanation.*—The expression 'mercantile document of title to goods' includes a bill of lading, dock-warrant, warehouse-keeper's certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented."

Repeal.

5. So much of the Policies of Insurance (Marine and Fire) Assignment Act, 1866, as is unrepealed, and so much of the Indian Short Titles Act, 1897,[1] as relates thereto, are hereby repealed. V of 1866. XIV of 1897.

[1] General Acts, Vol. IV.

THE PRISONERS ACT, 1900.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

PART II.

GENERAL.

3. Officers in charge of prisons to detain persons duly committed to their custody.
4. Officers in charge of prisons to return writs, etc., after execution or discharge.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

5. Warrants, etc., to be directed to Police-officers.
6. Power for Local Governments to appoint Superintendents of Presidency prisons.
7. Delivery of persons sentenced to imprisonment or death by High Court.
8. Delivery of persons sentenced to transportation or penal servitude by High Court.
9. Delivery of persons committed by High Court in execution of a decree or for contempt.
10. Delivery of persons sentenced by Presidency Magistrates.
11. Delivery of persons committed for trial by High Court.
12. Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.
13. Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.
15. Power for officers in charge of prisons to give effect to sentences of certain Courts.

SECTIONS.

16. Warrant of officer of such Court to be sufficient authority.
17. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.
18. Execution in British India of certain capital sentences not ordinarily executable there.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

19. Persons under sentence of penal servitude how to be dealt with.
20. Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.
21. Power to grant license to person sentenced to penal servitude.
22. Licensee to be allowed to go at large.
23. Apprehension of convict where license revoked.
24. Execution of warrant.
25. Licensee when arrested to be brought up for recommitment.
26. Recommitment.
27. Penalty for breach of condition of the license.

PART VI.

REMOVAL OF PRISONERS.

28. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.
29. Removal of prisoners.
30. Lunatic prisoners how to be dealt with.
31. (*Repealed.*)

PART VII.

PERSONS UNDER SENTENCE OF TRANSPORTATION.

32. Appointment of places for confinement of persons under sentence of transportation and removal thereto.

PART VIII.

DISCHARGE OF PRISONERS.

33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

PART IX.

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

Attendance of Prisoners in Court.

SECTIONS.

34. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.
35. Power for Civil Courts to require appearance of prisoner to give evidence.
36. District Judge in certain cases to countersign orders made under section 35.
37. Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.
38. Order to be transmitted through Magistrate of the district or subdivision in which person is confined.
39. Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.
40. Persons confined beyond limits of appellate jurisdiction of High Court.
41. Prisoner to be brought up.
42. Power to Government to exempt certain prisoners from operation of this Part.
43. Officer in charge of prison when to abstain from carrying out orders.

Commissions for Examination of Prisoners.

44. Commissions for examination of prisoners.
45. Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.
46. Commission how to be directed.

Service of Process on Prisoners.

47. Process how served on prisoners.
48. Process served to be transmitted at prisoner's request.

Miscellaneous.

49. Application of this Part in certain cases.
50. Deposit of costs.
51. Power to make rules under this Part.
52. Power to declare who shall be deemed officer in charge of prison.
53. Repeals.

SCHEDULES.

ACT No. III OF 1900.[1]

[*2nd February 1900.*]

An Act to consolidate the law relating to Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Prisoners Act, 1900.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(*b*) "prison" includes any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail.

PART II.

GENERAL.

Officers in charge of prisons to detain persons duly committed to their custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 101; for Report of the Select Committee, *see ibid*, 1900, p. 23; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 102 and 242; *ibid*, 1900, p. 21.

The Act has been declared in force in the District of Angul, under s. 5 of the Angul District Regulation, 1894 (I of 1894), Ben. Code, *see* Calcutta Gazette, 1901, Pt. I, p. 885.

(*Part II.—General. Part III.—Prisoners in the Presidency-towns.*)

Officers in charge of prisons to return writs, etc., after execution or discharge.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

Warrants, etc., to be directed to Police-officers.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

Power for Local Governments to appoint Superintendents of Presidency prisons.

6. The Local Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as "the Superintendent."

Delivery of persons sentenced to imprisonment or death by High Court.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent, together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to transportation or penal servitude by High Court.

8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

Delivery of persons committed by High Court in execution of a decree or for contempt.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons sentenced by Presidency Magistrates.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

(*Part III.—Prisoners in the Presidency-towns. Part IV.—Prisoners outside the Presidency-towns.*)

Delivery of persons committed for trial by High Court.

11. Every person committed by a Magistrate [1][or Justice of the Peace] for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure,[2] of any application for a declaration of insolvency, XIV of 1882. cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of[2] section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

13. (*1*) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

(*2*) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

14. In this Part all references to prisons or to imprisonment or confine-

[1] Substituted for the words "Justice of the Peace or Coroner" by s. 11 of the Coroners (Amendment) Act, 1908 (IV of 1908), General Acts, Vol. VI.

[2] This reference should be construed as applying to the Provincial Insolvency Act, 1907 (III of 1907), *see* s. 56 (*2*) of that Act, General Acts, Vol. VI.

ment shall be construed as referring also to Reformatory Schools or to detention therein.

Power for officers in charge of prisons to give effect to sentences of certain Courts.

15. (*1*) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued—

(*a*) by any Court or tribunal acting, whether within or without British India, under the general or special authority of Her Majesty, or of the Governor General in Council, or of any Local Government; or

(*b*) by any Court or tribunal in the territories of any Native Prince or State in India—

(i) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to sit as such Judge by the Native Prince or State or by the Governor General in Council, and

(ii) if the reception, detention or imprisonment in British India or in any province of British India of persons sentenced by any such Court or tribunal has been authorized by general or special order by the Governor General in Council or the Local Government, as the case may be; or

(*c*) by any other Court or tribunal in the territories of any Native Prince or State in India, with the previous sanction of the Governor General in Council or of the Local Government in the case of each such sentence, order or warrant.

(*2*) Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been considered on the merits and confirmed by any such officer specially authorized in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor General in Council.

Warrant of officer of such Court to be sufficient authority.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

(*Part IV.—Prisoners outside the Presidency-towns.*)

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

17. (*1*) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Local Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(*2*) Pending a reference made under sub-section (*1*), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

Execution in British India of certain capital sentences not ordinarily executable there.

18. (*1*) Where a British Court[1] exercising, in or with respect to territory beyond the limits of British India, jurisdiction which the Governor General in Council has in such territory,—

(*a*) has sentenced any person to death; and

(*b*) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in British India, has issued its warrant for the execution of such sentence to the officer in charge of a prison in British India,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.[2] V of 1898.

(*2*) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall be such as the Governor General in Council or a Local Government authorized by the Governor General in Council in this behalf may, by general or special order, direct.[1]

(*3*) A Court shall be deemed to be a British Court for the purposes of this section if the presiding Judge, or, if the Court consist of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to act as such Judge by any Native Prince or State in India or by the Governor General in Council:

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[1] For notification authorizing certain such British Courts to send their warrants to jails in British India which may be notified by the Governor General in Council, *see* Brit. Enact. N. S. (W. I.), and for notification appointing certain jails in British India to which such Courts may send their warrants, for the execution of capital sentences, *see ibid*; *see* also Ben. R. and O. Mad. R. and O.; Central Provinces Gazette, 1906, Pt. III, p. 607.

[2] *Supra.*

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consist of more than one Judge, be signed by a Judge who is an officer of the British Government authorized as aforesaid.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

Persons under sentence of penal servitude how to be dealt with.

19. (*1*) Every person under sentence of penal servitude may be confined in such prison within British India as the Governor General in Council, by general order, directs, and may, while so confined, be kept to hard labour and until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

(*2*) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

20. Every enactment now in force in British India with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act be construed to apply to persons under sentence of penal servitude.

Power to grant license to person sentenced to penal servitude.

21. (*1*) The Governor General in Council may grant to any person under sentence of penal servitude a license to be at large within British India or in such part thereof as is in such license expressed, during such portion of his term of penal servitude and upon such conditions as the Governor General in Council may think fit.

(*2*) The Governor General in Council may revoke or alter any license granted under sub-section (*1*).

Licensee to be allowed to go at large.

22. So long as any license granted under section 21, sub-section (*1*), continues in force and unrevoked, the licensee shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license.

Apprehension of convict where license revoked.

23. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that the license, has been revoked, and

require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly.

Execution of warrant.

24. A warrant issued under section 23 may be executed by any officer to whom it is directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed.

Licensee when arrested to be brought up for recommitment.

25. (*1*) When the licensee, for whose arrest a warrant has been issued under section 23, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested.

(*2*) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

Recommitment.

26. When a warrant has been issued under section 25, sub-section (*2*), the licensee shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Penalty for breach of condition of the license.

27. If a license is granted under section 21 upon any condition specified therein, and the licensee—

(*a*) violates any condition so specified, or

(*b*) goes beyond the limits so specified; or

(*c*) knowing of the revocation of the license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest;

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

PART VI.

Removal of Prisoners.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

(*Part VI.—Removal of Prisoners.*)

Removal of prisoners.

29.[1] (*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—

(*a*) under sentence of death, or

(*b*) under, or in lieu of, a sentence of imprisonment or transportation, or

(*c*) in default of payment of a fine, or

(*d*) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in British India.

(*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.

Lunatic prisoners how to be dealt with.

30. (*1*) Where it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Local Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(*2*) Where it appears to the Local Government that the prisoner has become of sound mind, the Local Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

XXXVI of 1858.

(*3*) The provisions of section 9 of the Lunatic Asylums Act, 1858,[2] shall apply to every person confined in a lunatic asylum under sub-section (*1*) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

[1] This section was substituted for the original section by the Repealing and Amending Act, 1903 (I of 1903), s. 3 and Sch. II, *infra*.

[2] General Acts, Vol. I.

(*4*) In any case in which a Local Government is competent under sub-section (*1*) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

31. [*Removal of prisoners from territories under one Local Government to territories under another.*] *Rep. by the Repealing and Amending Act, 1903 (I of 1903).*

PART VII.

PERSONS UNDER SENTENCE OF TRANSPORTATION.

Appointment of places for confinement of persons under sentence of transportation and removal thereto.

32. The Governor General in Council may appoint places [1] within British India to which persons under sentence of transportation shall be sent; and the Local Government, or some officer duly authorized[2] in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

PART VIII.

DISCHARGE OF PRISONERS.

Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

33. Any Court established under the Indian High Courts Act, 1861,[3] may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance. 24 & 25 Vict., c. 104.

[1] For notification issued by the Government of Burma under this power, *see* Burma Gazette, 1903, Pt. I, p. 733.

[2] For jails appointed to be places to which persons sentenced to be transported may be sent, *see* Gen. R. and O; *see* also as to (1) Madras Presidency, Fort St. George Gazette, 1900, Pt. I, p. 7; (2) the United Provinces, North-West Provinces Gazette, 1893, Pt. I, pp. 21, 244; (3) Central Provinces, C. P. R. and O.

[3] Coll. Stat., Vol. I.

PART IX.

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

Attendance of Prisoners in Court.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for Civil Courts to require appearance of prisoner to give evidence.

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

District Judge in certain cases to countersign orders made under section 35.

36. (*1*) Where an order under section 35 is made in any civil matter pending—

(*a*) in a Court subordinate to the District Judge, or

(*b*) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

(i) the District Judge to which the Court is subordinate, or

(ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(*2*) Every order submitted to the District Judge under sub-section (*1*) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison :

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required.

39. (*1*) Where a person is confined in a prison within a Presidency-town or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required, shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(*2*) The High Court making an order under sub-section (*1*) shall send it to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons confined beyond limits of appellate jurisdiction of High Court.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government of the territories within which the prison is situate, and the Local Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Governor General in Council may prescribe.

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.)

Prisoner to be brought up.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

Power to Government to exempt certain prisoners from operation of this Part.

42. The Governor General in Council or the Local Government may, by notification in the Gazette of India or the local official Gazette, as the case may be,[1] direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

Officer in charge of prison when to abstain from carrying out order.

43. In any of the following cases, that is to say,—

(*a*) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

(*b*) where the person named in any such order is under committal for trial; or

(*c*) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or

(*d*) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined;

the officer in charge of the prison shall abstain from carrying out the order,

[1] For rules made under this section in conjunction with s. 51, by—
(*1*) the Government of Bengal, *see* Ben. R. and O.;
(*2*) the Chief Commissioner of Assam, *see* Assam Gazette, 1900, Pt. II, p. 769;
(*3*) the Government of the Punjab as to the removal of State Prisoners, *see* Punj. R. and O.;
(*4*) Burma, *see* Bur. R. M.;
(*5*) Central Provinces, *see* C. P. R. and O.

and shall send to the Court from which the order has been issued, a statement of the reason for so abstaining :

Provided that such officer as aforesaid shall not so abstain where—

(i) the order has been made under section 37 ; and

(ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed ; and

(iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners.

Commissions for examination of prisoners.

44. In any of the following cases, that is to say,—

(*a*) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it ; or

(*b*) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter ; or

(*c*) where the District Judge declines, under section 36, to countersign an order for removal ;

the Court may, if it thinks fit, issue a commission, under the provisions of the [1] Code of Civil Procedure, for the examination of the person in the prison in which he is confined. XIV of 1882.

Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the [1] Code of Civil Procedure, for the examination of the person in the prison in which he is confined. XIV of 1882.

[1] See now the Code of Civil Procedure, 1908 (Act V of 1908) General Acts, Vol. VI.

(*Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.*)

Commission how to be directed.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Service of Process on Prisoners.

Process how served on prisoners.

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

Process served to be transmitted at prisoner's request.

48. (*1*) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(*2*) Such certificate as aforesaid shall be *primâ facie* evidence of the service of the process, and, if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

Miscellaneous.

Application of Part in certain cases.

49. (*1*) For the purposes of this Part, the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be.

* * * * * *[1]

Deposit of costs.

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient

[1] The second and third paragraphs were repealed by the Lower Burma Courts Act, 1900 (VI of 1900), s. 48.

means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the [1]Code of Civil Procedure. XIV of 1882.

Power to make rules under this Part.

51. (*1*) The Local Government, and in cases arising under section 40, the Governor General in Council, may make rules[2]—

(*a*) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;

(*b*) for regulating the amount to be allowed for the costs and charges of such escort; and

(*c*) for the guidance of officers in all other matters connected with the enforcement of this Part.

(*2*) All rules made under sub-section (*1*) shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall, from the date of such publication, have the same force as if enacted by this Act.

Power to declare who shall be deemed officer in charge of prison.

52. The Local Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.[3]

Repeals.

53. The enactments mentioned in the Third Schedule are hereby repealed to the extent specified in the last column thereof.

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[1] See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

[2] For rules made by—
(*1*) the Chief Commissioner of the Central Provinces, *see* Central Provinces Gazette, 1900, Pt. I, p. 157;
(*2*) the Punjab, *see* Punjab Gazette, 1900, Pt. I, p. 577;
(*3*) Bengal (under this section in conjunction with s. 42), *see* Ben. R. and O.;
(*4*) Government of Bombay, *see* Bombay Government Gazette, 1902, Pt. I, p. 1728;
(*5*) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 433;
(*6*) Madras, *see* Fort St. George Gazette, 1892, Pt. I, p. 949;
(*7*) Assam, *see* Assam Jail Manual;
(*8*) Central Provinces, *see* C. P. R. and O.

[3] For notification issued under this section (1) by the Government of Bombay, *see* Bombay Government Gazette, 1902, Pt. I, p. 1729; (2) by the Government of Madras, *see* Fort St. George Gazette, 1892, Pt. I, p. 949.

(*The First, Second and Third Schedules.*)

THE FIRST SCHEDULE.

(*See sections 35 and 37.*)

Court of

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of

A. B.

(Countersigned) *C. D.*

THE SECOND SCHEDULE.

(*See section 37.*)

Court of .

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The day of

A. B.

(Countersigned) *C. D.*

THE THIRD SCHEDULE.

(*See section 53.*)

Year.	No.	Title.	Extent of repeal.
1869	XV	The Prisoners' Testimony Act, 1869 .	The whole Act.
1871	V	The Prisoners Act, 1871 . . .	The whole Act, except section 15.
1882	IX	The Prisoners Act Amendment Act, 1882 .	The whole Act.

THE THIRD SCHEDULE.—*contd.*

Year.	No.	Title.	Extent of repeal.
1886	X	The Indian Criminal Law Amendment Act, 1886.	Section 25.
[1]1889	XI	The Lower Burma Courts Act, 1889 .	Section 98.
1891	XII	The Repealing and Amending Act, 1891 .	So much as relates to Act V of 1871.
1893	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893	The whole Act.
1894	VII	The Prisoners Act (1871) Amendment Act, 1894.	The whole Act.
1897	VIII	The Reformatory Schools Act, 1897 .	Section 30.

ACT No. IV OF 1900.[2]

[*16th February 1900.*]

An Act to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom.

WHEREAS it is expedient to authorize certain Companies registered under the Indian Companies Act, 1882,[3] to keep branch registers of their members in the United Kingdom; It is hereby enacted as follows :— VI of 1882.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Companies (Branch Registers) Act, 1900.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Company" means a Company registered under the Indian Companies Act, 1882,[3] having its capital divided into shares; and VI of 1882.

(*b*) the expression "shares" includes stock.

[1] The whole Act was subsequently repealed by the Lower Burma Courts Act, 1900 (VI of 1900).

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 74; for Report of the Select Committee, *see ibid*, 1900, p. 37; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 185; *ibid*, 1900, pp. 10 and 40.

[3] General Acts, Vol. III.

Power to keep branch registers in the United Kingdom.

3. (*1*) Any Company may, if authorized so to do by its regulations as originally framed or as altered by special resolution, cause to be kept in the United Kingdom a branch register or registers of members.

(*2*) The Company shall give to the Registrar of Joint-Stock Companies notice of the situation of the office where any such branch register (hereinafter called a "British register") is kept, and any change therein, and of the discontinuance of any such office in the event of the same being discontinued, and the Registrar shall record such notice.

(*3*) A British register shall, as regards the particulars entered therein, be deemed to be a part of the Company's register of members kept under the Indian Companies Act, 1882,[1] and shall be *primâ facie* evidence of all particulars entered therein. Every such branch register shall be kept in the manner provided by section 47 of the said Act.

VI of 1882.

(*4*) The Company shall transmit to its registered office in India a copy of every entry in its British register or registers as soon as may be after such entry is made, and shall cause to be kept at such office, duly entered up from time to time, a duplicate or duplicates of its British register or registers. The provisions of section 55 and section 60 of the Indian Companies Act, 1882,[1] shall apply to every such duplicate, and every such duplicate shall, for the purposes of the said Act, be deemed to be part of the register of members of the Company.

VI of 1882.

(*5*) Subject to the provisions of this Act with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the Indian register, and no transaction with respect to any shares registered in a British register shall, during the continuance of the registration of such shares in such British register, be registered in any other register.

(*6*) The Company may discontinue any British register, and thereupon all entries in that register shall be transferred to some other British register kept by the Company in the United Kingdom or to the register of members kept at the registered office of the Company in India.

Power to make rules and prescribe forms.

4. The Governor General in Council may, by notification in the Gazette of India, make rules and prescribe forms for the purpose of carrying into effect the provisions of this Act.

Construction with Act VI, 1882.

5. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Indian Companies Act, 1882[1].

VI of 1882.

[1] General Acts, Vol. III.

ACT No. VII OF 1900.[1]

[*22nd March 1900.*]

An Act to amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.

WHEREAS it is expedient to amend the Currency Conversion (Army Annual) Act, 1899, and to provide for its further continuance; It is hereby enacted as follows :—

Substitution of a new section for section 2, Act XIX of 1899.

1. For section 2 of the said Act the following shall be substituted, namely :—

[*Vide supra*, p. 480.]

Repeals.

2. The following provisions of the said Act are hereby repealed, namely :—

In section 1, sub-section (*1*), the word "Annual," and section 3.

ACT No. IX OF 1900.[2]

[*29th June 1900.*]

An Act to provide for the Court-fee payable on certain Applications to the Court of the Financial Commissioner of the Punjab.

WHEREAS it is expedient to provide for the court-fee payable on applications to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887[3]; It is hereby enacted as follows :—

Amendment of No. 13, First Schedule, Act VII, of 1870.

1. To the first column of No. 13 of the First Schedule to the Court-fees Act, 1870,[4] as inserted therein by section 71 of the Punjab Courts Act, 1884,[1] as amended by the Punjab Courts Act, 1899,[3] the following words shall be added, namely :—"or to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887."[1] XVI of 1887. VII of 1870. XVIII of 1884. XXV of 1899. XVI of 1887.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 75; for Proceedings in Council, *see ibid*, Pt. VI, pp. 46 and 81.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 81; for Proceedings in Council, *see ibid*, 1900, Pt. VI, pp. 158 and 162.

[3] P. and N. W. Code.

[4] General Acts, Vol. II.

ACT No. XII OF 1900.[1]

[*24th August 1900.*]

An Act to amend the Law of Evidence with respect to Bankers' Books.

XVIII of 1891.

WHEREAS it is expedient to amend the[2] Bankers' Books Evidence Act, 1891; it is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bankers' Books Evidence Act, 1900; and

(*2*) It shall come into force at once.

Amended definition of "company."

2. For the definition of "company" contained in section 2, sub-section (*1*), of the said Act, the following shall be substituted, namely :—

"(*1*) 'company' means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent."

ACT No. II OF 1901.[3]

[*22nd February 1901.*]

An Act to amend the law relating to the exemption from tolls of persons and property belonging to the Army.

WHEREAS certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, are exempted by section 143 of the Army Act[4] from payment of certain duties or tolls;

44 & 45 Vict., c. 58.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 89; for Proceedings in Council, *see ibid*, Pt. VI, pp. 164 and 174.

The Act has been extended to the Santhal Parganas by notification under s 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), Ben. Code, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[2] General Acts, Vol. IV.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 175; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 7; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 236; *ibid*, 1901, Pt. VI, pp. 11 and 16.

[4] Coll. Stat., Vol. II.

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act that "it shall be lawful for the Governor General of India . . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General . . . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act," and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Tolls (Army) Act, 1901.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of April 1901.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "ferry" includes every bridge and other thing which is a ferry within the meaning of any enactment authorizing the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890[1]: IX of 1890.

(*b*) the expression "His Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (8), of the Army Act,[2] and includes the Indian Reserve Forces when subject to military law: 44 & 45 Vict., c. 58.

(*c*) "horse" includes a mule and any beast of whatever description which is used for burden or draught or for carrying persons:

(*d*) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888,[1] and includes IV of 1888.

[1] General Acts, Vol. IV.
[2] Coll. Stat., Vol. II.

persons holding commissions in the Indian Army Reserve of officers when called out in any military capacity:

(*e*) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating:

(*f*) the expression "local corps" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Erinpura Irregular Force, the Meywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the Governor General in Council in this behalf by order published in the Gazette of India:

(*g*) "public authority" means the Government or a local authority; and so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879,[1] or section 51 of the Indian Railways Act, 1890,[2] includes such a railway company: and

42 & 43 Vict., c. 41. IX of 1890.

(*h*) "tolls" include duties, dues, rates, rents, fees and charges, but do not include customs-duties levied under the [2]Indian Tariff Act, 1894, octroi-duties or town-duties on the import of goods, or fares paid for the conveyance of passengers on a tramway.

VIII of 1894.

Exemptions from tolls.

3. The following persons and property, namely:—

(*a*) all officers and soldiers of—

(i) His Majesty's Regular Forces,

(ii) any local corps, or

(iii) Imperial Service Troops,

when on duty or on the march,

(*b*) all members of a corps of Volunteers when on duty or when proceeding to or returning from duty,

(*c*) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,

(*d*) all grass-cutters when employed in the service of—

(i) His Majesty's Regular Forces,

(ii) any local corps,

[1] Coll. Stat., Vol. II.
[2] General Acts, Vol. IV.

(iii) Imperial Service Troops, or

(iv) any corps of Volunteers,

(*e*) all other authorized followers of—

(i) His Majesty's Regular Forces,

(ii) any local corps,

(iii) Imperial Service Troops, or

(iv) any corps of Volunteers,

when they accompany any body of such Forces, Troops or Volunteers or any members of such corps on the march, or when they are otherwise moving under the orders of military authority,

(*f*) all members of the families of officers, soldiers or authorized followers of—

(i) His Majesty's Regular Forces, or

(ii) any local corps,

when accompanying any body of troops, or any officer, soldier or authorized follower thereof on duty or on the march,

(*g*) all prisoners under military escort,

(*h*) the horses and baggage, and the persons (if any) employed in carrying the baggage, of any persons exempted under any of the foregoing clauses, when such horses, baggage or persons accompany the persons so exempted under the circumstances mentioned in those clauses respectively,

(*i*) all carriages and horses belonging to His Majesty or employed in His Majesty's military service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this section mentioned, or when conveying baggage or stores, or when returning unladen from conveying such persons, baggage or stores,

(*j*) all carriages and horses, when moving under the orders of military authority for the purpose of being employed in His Majesty's military service,

(*k*) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and

(*l*) all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively,

shall be exempted from payment of any tolls—

(*i*) on embarking or disembarking, or on being shipped or landed, from or upon any landing-place, or

(*ii*) in passing along or over any turnpike or other road or bridge, or

(*iii*) on being carried by means of any ferry,

otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in British India :

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along any canal from payment of tolls in like manner as other boats, barges and vessels.

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

4. (*1*) No tolls shall be leviable by any local authority in respect of—

(*a*) any vessel employed by the Government solely for the transport of troops, or

(*b*) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

(*c*) carriages belonging to His Majesty or employed in His Majesty's military service embarking or disembarking at any port.

(*2*) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services and accommodation on such terms and for such periods as may from time to time be determined by the Government in consultation with such local authority.

Penalty.

5. Any person who demands and receives any toll in contravention of the provisions of section 3 or section 4 shall be punishable with the fine which may extend to fifty rupees.

Compensation.

6. (*1*) If any owner or lessee, or any Company, railway administration or loca authority claims compensation for any loss alleged to have been incurred owing to the operation of this Act, the claim shall be submitted to the Local Government.

(*2*) On receiving any such claim, the Local Government, subject to the control of the Governor General in Council, shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

Rules.

7. (*1*)[1] The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council, or the Local Government, with the previous sanction of the Governor General in Council, may make rules providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the payment of tolls under this Act.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

Repeals.

8. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 8.*)

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor General in Council.	
18	VIII	The Indian Tolls Act, 1851.	In section 4, *the words* of troops and military stores and equipages on their march or.
1878	XVII	The Northern India Ferries Act, 1878.	So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

[1] For rules showing the form of passes and the circumstances in which certain persons do not require passes, *see* Gazette of India, 1903, Pt. I, p. 968; Gen. R. and O.

THE SCHEDULE—*contd.*

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor of Fort St. George in Council.	
1884	I	The City of Madras Municipal Act, 1883.	In section 174, *the word* troops *and the word* military; *also* so much of the section as relates to any Government stores, vehicles, animals or other property which are or is exempted by section 3 of this Act.
"	IV	The Madras District Municipalities Act, 1884.	In section 91, sub-section (*3*), clause (*b*), as amended by the Madras District Municipalities Act Amendment Act, 1897 (Madras Act III of 1897), *the words* troops, military stores and baggage, military and.
*	*	* *	* *[1]
		Acts of the Governor of Bombay in Council.	
1868	II	The Bombay Ferries Act, 1868.	Section 3, clause (*a*).
1875	III	Tolls on Public Roads and Bridges.	In section 5, *the words* of troops and military stores and equipages on their march or.
1879	VI	The Bombay Port Trust Act, 1879.	Section 44.
1886	VI	The Karachi Port Trust Act, 1886.	Section 45.
1888	III	The City of Bombay Municipal Act, 1888.	In section 190, sub-section (*1*), *the letter* (*b*); *also* so much of the rest of the sub-section as excepts vehicles which are exempted by section 3 of this Act.
"	V	The Aden Port Trust Act, 1888.	Section 40, sub-section (*3*), clause (*b*).
		Acts of the Lieutenant-Governor of Bengal in Council.	
1876	V	The Bengal Municipal Act, 1876.	In section 159, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or, *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise which are attached to a regiment or a Military Department,

[1] The entry relating to the Madras Local Boards Act, 1884 (Mad. Act V of 1884), was repealed by the Repealing and Amending Act, 1901 (XI of 1901), third schedule, *infra*.

THE SCHEDULE—*concld.*

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Lieutenant-Governor of Bengal in Council—contd.	
1876	V	The Bengal Municipal Act, 1876—*contd.*	and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1884	III	The Bengal Municipal Act, 1884.	In section 168, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1885	I	The Bengal Ferries Act, 1885.	So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
		Act of the Lieutenant-Governor of Burma in Council.	
1898	II	The Burma Ferries Act, 1898.	So much of section 16 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

ACT No. V OF 1901.[1]

[*9th March 1901.*]

An Act further to amend the Indian Forest Act, 1878.

VII of 1878. WHEREAS it is expedient further to amend the Indian Forest Act, 1878;[2] It is hereby enacted as follows :—

Short title and commencement. **1.** (*1*) This Act may be called the Indian Forest (Amendment) Act, 1901; and

(*2*) It shall come into force at once.

VII of 1878. Addition to section 32, Act VII, 1878. **2.** To section 32 of the Indian Forest Act, 1878,[3] the following clause shall be added, namely :—

"Whenever fire is caused wilfully or by gross negligence in a protected forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit."

Amendment of section 33, Act VII of 1878. **3.** In section 33 of the said Act, after the words and figures "except as regards any portion of a forest closed under section 29" the words and figures "or any rights the exercise of which has been suspended under section 32" shall be inserted.

Amendment of section 78, Act VII of 1878. **4.** From section 78 of the said Act the words "demanding his aid" shall be omitted before clause (*a*), and after clause (*b*) the following shall be inserted namely :—

"and shall assist any Forest-officer or Police-officer demanding his aid—".

ACT No. VII OF 1901.[1]

[*22nd March 1901.*]

An Act to place Native Christians in the same position as Hindus, Muhammadans and Budhists in the matter of obtaining letters of administration and for other purposes.

WHEREAS it is expedient to place Native Christians on the same footing

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 116; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 79; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 236; *ibid*, 1901, Pt. VI, pp. 16, 17 and 31.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), Ben. Code, *see* Calcutta Gazette, 1902, Pt. I, p. 310.

[2] General Acts, Vol. II.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 5; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 95; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 4, 12, 105 and 123.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), Ben. Code, *see* Calcutta Gazette, 1902, Pt. I, p. 310.

as Hindus, Muhammadans and Buddhists in the matter of obtaining letters of administration; to exempt them from the operation of certain provisions of the Administrator General's Act, 1874,[1] from which Hindus, Muhammadans, Parsis and Buddhists are exempted; and to enable them to obtain certificates under the Succession Certificates Act, 1889,[2] in certain cases; It is hereby enacted as follows:— II of 1874. VII of 1889.

Short title and commencement.

1. (*1*) This Act may be called the Native Christian Administration of Estates Act, 1901; and

(*2*) It shall come into force at once.

Definition.

2. In this Act, the expression "Native Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion.

Exemption of Native Christians from sections 190 and 239, Act X, 1865.

3. Sections 190 and 239 of the Indian Succession Act, 1865,[3] shall not apply to any part of the property of a Native Christian who has died intestate. X of 1865.

Exemption of Native Christians from certain sections of Act II of 1874.

4. In sections 16, 17, 18, 37 and 64 respectively of the Administrator General's Act, 1874,[1] before the word "Hindu" wherever it occurs, the word "Native Christian" shall be inserted: II of 1874.

Provided that nothing contained in this section shall affect any probate, letters of administration or certificate granted or vested under the said Act.

Grant of certificates under Act VII of 1889 to Native Christians in certain cases.

5. Nothing contained in section 1, sub-section (*4*), of the Succession Certificates Act, 1889,[2] shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Native Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under the Indian Succession Act, 1865.[3] VII of 1889. X of 1865.

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[1] General Acts, Vol. II.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. I.

ACT No. VIII OF 1901.[1]

[*22nd March 1901.*]

An Act to provide for the Regulation and Inspection of Mines.

WHEREAS it is expedient to provide for the regulation and inspection of mines; It is hereby enacted as follows:—

Preliminary.

1. (*1*) This Act may be called the Indian Mines Act, 1901. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887.[2] Savings of Regulation XII, 1887.

XII of 1887.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "agent," when used in relation to a mine, means any person appointed as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act:

(*b*) "child" means a person under the age of twelve years:

(*c*) a person is said to be "employed" in a mine who works, under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or at the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations:

(*d*) "mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for commencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine; but it does not include any pit, quarry or other excavation the depth of no part

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 59; for Report of the Select Committee, *see ibid*, 1900, Pt. V, p. 45; *ibid*, 1901, Pt. V, p. 83; for Proceedings in Council, *see ibid*, 1899, Pt. VI, p. 128; *ibid*, 1900, Pt. VI, pp. 10, 44 and 236; *ibid*, 1901, Pt. VI, pp. 2, 32 and 126.

[2] Bur. Code.

of which measured from the level of the adjacent ground exceeds twenty feet and no part of which extends beneath the superjacent ground;

(*e*) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, and does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(*f*) "prescribed" means prescribed by rules made under this Act: and

(*g*) "shaft" includes pit.

Inspectors.

Inspectors.

4. (*1*) The Governor General in Council shall, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines throughout British India.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, appoint persons, qualified by experience, to be Inspectors of Mines within such local areas or for such groups or classes of mines as it may assign to them respectively.

(*3*) Every Inspector of Mines appointed under sub-section (*2*) shall, in the performance of his duties, be subordinate to the Chief Inspector of Mines appointed under sub-section (*1*) in such respects and to such extent as may be prescribed by the Governor General in Council.

(*4*) The Chief Inspector and every Inspector of Mines appointed under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code, [1] and shall be subordinate to such authority as the Governor General in Council or the Local Government, as the case may be, may direct. XLV of 1860.

(*5*) No Chief Inspector or Inspector of Mines shall be a partner or have any interest, direct or indirect, in any mine or mining rights in India.

(*6*) When rules are made under this Act, the Inspector of Mines shall give information to owners, agents and managers of mines within the local

[1] General Acts, Vol. I.

area, or the group or class of mines, for which he has been appointed as to any rules which concern them respectively, and as to the places where copies of such rules may be obtained.

Powers of District Magistrate.

5. The District Magistrate may exercise such of the powers and perform such of the duties of an Inspector of Mines as the Local Government may, by general or special order, direct:

Provided that nothing in this section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 15 or section 21.

Powers of Inspectors of Mines.

6. The Chief Inspector of Mines may, anywhere within British India, and an Inspector of Mines may, within the local area or with respect to the group or class of mines for which he is appointed,—

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules and orders made thereunder are observed in the case of any mine;

(*b*) enter, with such assistants (if any) as he thinks fit, inspect and examine any mine and any part thereof at all reasonable times by day or by night, but not so as unreasonably to impede or obstruct the working of the mine;

(*c*) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the special rules for the time being in force in and at the mine and all matters and things connected with or relating to the safety of the persons employed in or about the mine;

(*d*) order that any person shall not be employed in, or admitted to, or shall be removed from, a mine where there is ground for believing that his employment in or admission to or presence in such mine would be dangerous to himself or others: Provided that an appeal[1] shall lie to such authority as the Governor General in Council or the Local Government, as the case may be, may direct from any order made under this clause, and that the order shall be complied with until the decision of such authority shall be received at the mine;

(*e*) do all other things required of him by or under this Act.

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[1] For notification directing that from every order passed by the Chief Inspector of Mines in India under this clause an appeal shall lie to the Advisory Mining Board; if a Mining Board has been constituted under section 9 of the Act for the Province or part of the Province where the mine in respect of which this order was made is situate, and elsewhere to the Chief Controlling Revenue-authority as defined in section 2, clause (*8*), of the Indian Stamp Act, 1899, see Gazette of India, 1904, Pt. I, p. 95; Gen. R. and O.

Facilities to be afforded to Inspectors.

7. Every owner, agent and manager of a mine shall furnish the Chief Inspector and every Inspector of Mines, on requisition, with the means necessary for making any entry, inspection, examination or inquiry in relation to the working of the mine under this Act.

Information acquired to be deemed official secrets within meaning of Act XV, 1889.

8. (*1*) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector of Mines, or by any one assisting him, in the inspection of any mine under this Act, shall be regarded as strictly confidential.

(*2*) If any such person discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or the Local Government, as the case may be, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.[1] XV of 1889.

(*3*) No Court shall take cognizance of any offence under this section unless on a prosecution at the instance of the Governor General in Council, or the Local Government, or of a person aggrieved by the same.

Mining Boards and Committees.

Mining Boards.

9. (*1*) The Local Government may constitute for the Province, or for any part of the Province, or for any group or class of mines in the Province, a Mining Board consisting of —

(*a*) a public officer, not being the Chief Inspector or an Inspector of Mines, nominated by the Local Government to act as chairman;

(*b*) the Chief Inspector or the Inspector of Mines;

(*c*) one other person, not being the Chief Inspector or an Inspector of Mines, nominated by the Local Government; and

(*d*) two persons nominated by owners of mines or their representatives in such manner as the Local Government may direct.

(*2*) The chairman shall appoint a person to act as secretary of the Board.

(*3*) The Local Government may give directions as to the payment of travelling expenses incurred by the chairman, secretary or any member of a Mining Board in the performance of his duty as such chairman, secretary or member.

[1] General Acts, Vol. IV.

Committees.

10. (*1*) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the Local Government or by such officer or authority as the Local Government may direct[1];

(*b*) one or more persons qualified by experience to dispose of the question referred to the Committee and nominated by the chairman; and

(*c*) one or more persons equal in number to the person or persons nominated under clause (*b*) and nominated by the owner, agent, or manager of the mine concerned.

(*2*) The Inspector of Mines shall not serve as chairman or member of a Committee appointed under this section.

(*3*) No person employed in or in the management of the mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*4*) Where an owner, agent or manager fails to exercise his power of nomination under sub-section (*1*), clause (*c*), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to them.

(*5*) The Committee shall hear and record such information as the Chief Inspector or the Inspector of Mines, or the owner, agent or manager of the mine concerned may place before them, and shall intimate their decision to the Chief Inspector or the Inspector of Mines and to the owner, agent or manager of the mine concerned, and shall report their decision to the Local Government, or, where a Mining Board has been constituted, to the Local Government through the Mining Board.

(*6*) On receiving such report the Local Government may, if the Inspector of Mines, or the owner, agent or manager, has lodged an objection to the decision of the Committee, proceed to review such decision and to pass such orders in the matter as it may think fit.

(*7*) The Local Government may give directions as to the remuneration (if any) to be paid to the members of the Committee or any of them, and as to payment of the expenses of the inquiry, including such remuneration.

Powers of Mining Boards and Committees.

11. (*1*) A Mining Board constituted under section 9 or a Committee appointed under section 10 may exercise such of the powers of an Inspector of Mines as they may think it necessary or expedient to exercise for the purpose of deciding, or reporting upon, any matter referred to them.

[1] In the Central Provinces by Commissioners of Divisions, *see* Central Provinces Gazette, 1906, Pt. III, p. 599.

(*2*) A Mining Board constituted under section 9 or a Committee appointed under section 10 shall have the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents; and every person required by any such Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.[1] XLV of 1860.

Recovery of expenses.

12. When the Local Government directs that the expenses of any inquiry conducted by a Mining Board constituted under section 9 or by a Committee appointed under section 10 are to be borne in whole or in part by the owner, agent or manager of the mine concerned, the amount so directed to be paid may be recovered on application by the Chief Inspector or the Inspector of Mines to a Magistrate having jurisdiction at the place where the mine is situate or where such owner, agent or manager is for the time being resident by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

Mining Operations and Duties and Responsibilities of Owners, Agents and Managers.

Managers.

13. (*1*) For every mine there shall be a manager, who shall have the prescribed qualifications.

(*2*) The manager shall be responsible for the superintendence of all parts of the mine.

Duties and responsibilities of owners, agents and managers.

14. (*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and the rules and orders made thereunder.

(*2*) In the event of any contravention of, or failure to comply with, any such provisions on the part of any person whomsoever, the owner, agent and manager shall each be liable to be found guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said provisions, to prevent such contravention or non-compliance, and that such contravention or non-compliance occurred without his consent.

Powers of Inspector when causes of danger not expressly

15. (*1*) If, in any respect which is not provided against by any express provision of this Act, or of the rules or orders made thereunder, the Chief Inspector or any Inspector of Mines finds that any mine, or any part thereof,

[1] General Acts, Vol. I.

or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective, and require the same to be remedied. provided against exist or when employment of women or children is dangerous.

(*2*) If, for reasons to be recorded in the order, the Chief Inspector or the Inspector of Mines is of opinion that there is urgent and immediate danger to the life or safety of women or children employed in or at any mine, he may, by order in writing, prohibit the employment of such women and children.

(*3*) The Chief Inspector or the Inspector giving notice under sub-section (*1*) or making an order under sub-section (*2*), shall forthwith report the same to the Mining Board, or, where there is no Mining Board, to such officer [1] or authority as the Local Government may by general or special order appoint in this behalf.

(*4*) If the owner, agent or manager of the mine objects to remedy the matter complained of in a notice under sub-section (*1*) or to comply with an order made under sub-section (*2*), he may within twenty days after the receipt of the notice or order send his objection in writing, stating the grounds thereof, to the Board or other authority to which the Inspector's report is made under sub-section (*3*).

(*5*) On receiving an objection made under sub-section (*4*), the said Board or other authority shall refer the matter to a Committee.

(*6*) In case objection is taken to an order made under sub-section (*2*), the order shall be complied with until the decision of the Committee is received at the mine.

(*7*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898. [2] V of 1898.

16. The owner, agent or manager of a mine shall, in the case of existing mines within three months after the commencement of this Act, and in the case of new mines within three months after the commencement of mining operations, give notice in writing to the Inspector of Mines appointed under section 4, sub-section (*2*), for the local area in which the mine is Notice to be given of mining operations.

[1] In Madras, to the District Collector, *see* Fort St. George Gazette, 1901, Pt. I, p. 1192; in the Central Provinces, to Commissioners of Divisions, *see* C. P. Gazette, 1906, Pt. III, p. 599.
[2] *Supra.*

situate, or for the group or class of mines to which the mine belongs, or, if no Inspector of Mines has been appointed for such area or group or class of mines, to the Chief Inspector of Mines, of the address to which he desires his letters to be directed, the kind of minerals worked, or to be worked, the name of the person under whom the mining operations are or are to be conducted, and the nature of the moving power which is or is to be used.

Notice to be given of accidents.

17. When any accidental explosion occurs in a mine, or when any accident occurs in or at a mine, causing loss of life or serious bodily injury, the owner, agent or manager of the mine shall give such notice of the explosion or accident to such authorities in such form, and within such time, as may be prescribed.

Power for the Government to order formal inquiry into accidents.

18. (*1*) When in or at any mine an explosion or other accident has occurred, if it appears to the Governor General in Council or the Local Government that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, the Governor General in Council or the Local Government may give directions accordingly, and may appoint a competent person to hold the inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(*2*) The person or persons so appointed shall have all the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents; and every person required by such person or persons as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.[1] XLV of 1860.

(*3*) The person or persons holding an inquiry under this section may exercise such of the powers of an Inspector of Mines as he or they may think it necessary or expedient to exercise for the purposes of such inquiry.

(*4*) The person or persons holding an inquiry under this section shall make a report to the Local Government, stating the causes of the accident and its circumstances, and adding any observations which he or they may think fit to make.

Publication of reports.

19. The Local Government may cause any report submitted under section 15 or section 18 to be published at such time and in such manner as it may think fit.

[1] General Acts, Vol. I.

Rules.

Power for Government to make rules.

20. (*1*) The Governor General in Council may, for the whole or any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, by notification in the Gazette of India or the local official Gazette, as the case may be, make rules[1] for carrying out the purposes and objects of this Act in respect of all mines or any groups or classes of mines.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the duties and powers of the Chief Inspector and of Inspectors of Mines in respect of the inspection of mines under this Act, and provide for appeals from the orders of the Chief Inspector and Inspectors of Mines;

(*b*) provide for the appointment of chairmen and members of Mining Boards and committees and regulate the procedure of such Boards and committees;

(*c*) prescribe the duties of owners, agents and managers of mines and of all persons acting under them;

(*d*) prescribe the qualifications of managers and of all persons acting under them;

(*e*) regulate the manner of ascertaining, by examination or otherwise, the qualifications of managers and persons acting under them and the granting and renewal of certificates of competency;

(*f*) fix the fee (if any) to be paid in respect of such examinations and the grant and renewal of certificates as aforesaid;

(*g*) provide for the making of inquiries into charges of misconduct or incompetency on the part of managers and persons acting under them, and for the suspension and cancellation of certificates of competency;

[2] (*h*) prescribe the matters in respect of which notices, returns and reports shall be furnished by owners, agents and managers, the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished and the particulars to be contained in them;

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[1] For rules applying to all coal mines in British India, *see* Gen R. and O.; Gazette of India, 1904, Pt. I, p. 199; *ibid*, 1906, Pt. I, p. 238; *ibid*, 1907, Pt. I, p. 64.

[2] For rules prescribing the authority to whom, the form in which and the time within which notices under s. 17 shall be given, *see* Gazette of India, 1908, Pt. I, p. 848; for similar rules prescribing rules as to annual returns, see Gen. R. and O.; Gazette of India, 1907, Pt. I, p. 354.

(*i*) prescribe the plans (if any) to be kept by owners, agents and managers, and the manner and places in which they are to be kept for purposes of record ;

(*j*) regulate, subject to the provisions of the Indian Explosives Act, 1884,[1] and the rules thereunder, the storage and use of explosives ; IV of 1884.

(*k*) provide for the safety of the persons employed in mines, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, the fencing of shafts, outlets and passages, and the care of all machinery ;

(*l*) prohibit, restrict or regulate the employment of women or children either below ground or on particular kinds of labour where such employment is attended by danger to the life, safety or health of such women or children ;

(*m*) require owners or agents to maintain registers of women and children employed, and prescribe the forms of such registers ;

(*n*) provide for the water-supply, sanitation and conservancy of mines ;

(*o*) provide for the safety of the roads and working places in mines ;

(*p*) provide for the ventilation of mines and the action to be taken in respect of noxious gases ;

(*q*) require and regulate the use of safety lamps in mines ;

(*r*) provide against the accumulation of water in mines ;

(*s*) regulate the procedure on the occurrence of the accidents in mines and the supply of medical appliances and comforts for the benefit of persons injured therein ;

(*t*) provide for the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public ;

(*u*) provide for the protection of public property and works from injury in respect of any mine when the workings are discontinued ; and

(*v*) prescribe the notice [2] to be given by the owner, agent or manager of a mine before extending any mining operations under his control at or to any point within fifty yards of any railway

[1] General Acts, Vol. III.

[2] For rules under this clause for application to all mines in British India, *see* Gazette of India, 1907, Pt. I, p. 1092.

IX of 1890. subject to the provisions of the Indian Railways Act, 1890, [1] or of any public works or classes of public works which the Local Government may, by general or special order, specify in this behalf.

(*3*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*4*) The date to be specified in accordance with clause (*3*) of section 23 of
X of 1897. the General Clauses Act, 1897,[2] as that after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(*5*) Where a Mining Board has been constituted under section 9, any rule to be made under this Act shall, before it is published for criticism under sub-section (*3*), be referred to the Mining Board, and the rule shall not be so published until the said Board has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*6*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, as the case may be, and, on such publication, shall have effect as if enacted in this Act.

Power for owners, etc., to make special rules.

21. (*1*) The owner, agent or manager of a mine may frame and transmit to the Inspector of Mines or, when there is no Inspector for the local area in which the mine is situate or the group or class to which the mine belongs, to the Chief Inspector, a draft of such special rules, not being inconsistent with this Act or any rules for the time being in force under section 20, for the control and guidance of the persons acting in the management of, or employed in or about, the min as he may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in or about the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails within a period of two months after the receipt of a notice from the Inspector or Chief Inspector to transmit a draft of such special rules as are referred to in sub-section (*1*), or

(*b*) submits a draft of such special rules as aforesaid, which is not in the opinion of the Inspector or Chief Inspector sufficient,

the Inspector or Chief Inspector may either—

(i) propose a draft of such special rules as appear to him to be sufficient, or

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[1] General Acts, Vol. IV.

(ii) propose such amendments in the draft submitted to him by the owner, agent or manager as will, in his opinion, render them sufficient,

and shall send such draft rules or draft amendments to the owner, agent or manager for consideration.

(*3*) If within a period of two months from the date on which any draft rules or draft amendments are sent by the Inspector or Chief Inspector to the owner, agent or manager of a mine under the provisions of sub-section (*2*), the Inspector or Chief Inspector and the owner, agent or manager are unable to agree as to the terms of the special rules to be made under sub-section (*1*) or as to the terms of any of such rules, the said Inspector or Chief Inspector shall refer the draft rules for settlement to the Mining Board or, where there is no Mining Board, to such officer[1] or authority as the Local Government may, by general or special order, appoint in this behalf.

(*4*) A copy of the draft rules as agreed to by the owner, agent or manager and the Inspector or Chief Inspector, or, when they are unable to agree, as settled by the Mining Board or such officer or authority as aforesaid, shall, together with a notice intimating that any objection or suggestion in respect thereof may be submitted in writing by any person employed in the mine to the said Inspector or Chief Inspector for consideration, be posted up for not less than thirty days in legible characters in English and in the vernacular of the district in some conspicuous place in the mine for the information of the persons employed therein, and a certificate to the effect that this has been done signed by the owner, agent or manager of the mine shall be transmitted to the said Inspector or Chief Inspector, together with two copies of the draft rules.

(*5*) When the publication required by sub-section (*4*) has been carried out, the Inspector or Chief Inspector shall forward a copy of the draft rules so published, together with a copy of any objections or suggestions in respect thereof received by him, to the Local Government.

(*6*) The special rules, when approved by the Local Government, with such modifications (if any) as it may think fit, shall be published in like manner as is provided in sub-section (*4*) respecting the publication of the draft, and, on such publication, shall have effect as if enacted in this Act :

Provided that the Local Government may at any time, by order in writing, which shall be published in like manner as aforesaid, rescind, in whole or in part, any rules so made, and that thereupon such rules shall cease to have effect accordingly.

[1] In Madras, to the District Collector—*see* Fort St. George Gazette, 1901, Pt. I, p. 1162.

Penalties.

Penalties for offences.

22. (*1*) Whoever—

(*a*) obstructs the Chief Inspector or an Inspector of Mines in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination or inquiry thereunder in relation to any mine; or

(*b*) counterfeits, or knowingly makes a false statement in, any certificate or in any official copy of a certificate granted under this Act; or

(*c*) knowingly uses as true any such counterfeit or false certificate; or

(*d*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false for the purpose of obtaining, for himself or for any other person, a certificate or the renewal of a certificate, or any employment under this Act; or

(*e*) contravenes any provision of this Act or any rule or order thereunder for the breach of which no penalty is otherwise provided, where the act done has resulted in loss of life or serious bodily injury to any person;

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever—

(*a*) falsifies any plan or register or record required to be maintained by or under this Act; or

(*b*) being the owner, agent or manager of a mine, omits to give the prescribed notice of an accident in the mine or to make or furnish any prescribed plans or returns; or

(*c*) makes, gives or delivers any such plan, register, record, notice or return containing a statement, entry or detail which is not, to the best of his knowledge or belief, true;

shall be punishable with fine which may extend to five hundred rupees.

(*3*) Whoever—

(*a*) employs or allows to be employed in or about a mine or allows to enter a mine, or part of a mine, any person in contravention of any provision of this Act or of any rule or order thereunder; or

(*b*) allows any person to perform any work forbidden by, or to work in contravention of, any such provision; or

(*c*) fails to comply with any requisition or order made under any such provision ; or

(*d*) being the owner, agent or manager of a mine, fails to maintain correctly, or to produce, any prescribed plan ; or

(*e*) contravenes any provision of this Act or any rule or order thereunder for the breach of which no penalty is otherwise provided ;

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing breach under clause (*c*) of this sub-section, with a further fine which may extend to fifty rupees for every day during which the breach is proved to have been persisted in after the date of the receipt by him of the order or requisition referred to in such clause.

Miscellaneous.

Prosecution of owner, agent or manager.

23. No prosecution shall be instituted against any owner, agent or manager for any offence against this Act or any rule or order thereunder except at the instance of the Chief Inspector or an Inspector of Mines.

Limitation of prosecutions.

24. No Court shall take cognizance of any offence against this Act or any rule or order thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Cognizance of offences.

25. No Court inferior to that of a Magistrate of the first class or Subdivisional Magistrate shall try any offence against this Act or any rule or order thereunder which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is punishable with imprisonment.

Reference to Mining Board or Committee in lieu of prosecution in certain cases.

26. If the Court trying any case instituted on the complaint of the Chief Inspector or an Inspector of Mines under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made.

Decision of question whether a mine is under this Act.

27. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, and a certificate, signed by a Secretary to the Local Government, shall be conclusive on the point.

Evidence of age.

28. If in any inquiry or proceeding under this Act it is necessary to decide the question whether a person is or is not under the age of twelve years, a certificate in writing, signed by a duly qualified person practising medicine or surgery, who states that he has examined such person, and that

the age of such person, as nearly as can be ascertained from such examination, is or is not under twelve years, shall be received as *primâ facie* evidence of the age of such person.

Power to exempt from operation of Act.

29. The Governor General in Council may, by [1] notification in the Gazette of India, and subject to such limitation and conditions as may seem to him expedient, exempt from the operation of the whole of any part of this Act any local area, [2] or any mine or group or class of mines, or any class of persons.

Power to alter or rescind orders.

30. The Governor General in Council or any Local Government shall have authority to reverse or modify any order passed under this Act by any authority subject to his or its control.

Application of Act to Crown mines.

31. This Act shall apply to mines belonging to the Crown.

Exercise of power by Governor General in Council.

32. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon a Local Government.

33. [*Bar of prosecutions for certain offences committed within one year of commencement of Act.—Spent.*]

ACT No. IX OF 1901.[3]

[*11th October 1901.*]

An Act further to amend the Indian Articles of War.

V of 1869.

WHEREAS it is expedient further to amend the Indian Articles of War [4]; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Articles of War Amendment Act, 1901; and

(*2*) It shall come into force at once.

V of 1869.

Amendment of article 4, Act V, 1869.

2. To article 4, sub-article (*1*), clause (*b*), of the said Indian Articles of War, the following proviso shall be added, namely:—

"Provided that, if he is dismissed or discharged by order of an officer not subject to the authority of the Governor General in Council or of the

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[1] For list of notifications exempting certain quarries being mines from the operation of the Act, *see* Gen. R. and O.

[2] For notification affecting certain districts in the North-West Frontier Province, *see* Gazette of India, 1902, Pt. I, p. 329.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 99; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 213 and 217.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), Ben. Code, *see* Calcutta Gazette, 1902, Pt. I, p. 310.

[4] General Acts, Vol. I.

Commander-in-Chief in India, such dismissal or discharge shall not take effect until it has been approved by the Governor General in Council or by the Commander-in-Chief in India, or, if he belongs to a command but is serving with a force not attached to a command, by the general officer of the command to which he belongs."

ACT No. X OF 1901. [1]

[*11th October 191*

An Act further to amend the Court-fees Act, 1870.

Short title and commencement.

WHEREAS it is expedient further to amend the Court-fees Act, 1870[2]; It is hereby enacted as follows:— VII of 1870.

1. (*1*) This Act may be called the Court-fees (Amendment) Act, 1901; and

(*2*) It shall come into force at once.

Addition of new section after section 1, Act VII, 1870.

2. After section 1 of the Court-fees Act, 1870,[2] the following section shall be added, namely:— VII of 1870.

"Chief Controlling Revenue-authority" defined.

"2. In this Act, unless there is anything repugnant in the subject or context, 'Chief Controlling Revenue-authority' means—

(*a*) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the [3]North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue;

(*b*) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner;

(*c*) in Sindh—the Commissioner;

(*d*) in the Punjab and Burma, including Upper Burma—the Financial Commissioner; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 101; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 214 and 218.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), Ben. Code —*see* Calcutta Gazette, 1902, Pt. I, p. 310.

[2] General Acts, Vol. II.

[3] Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* s. 2 of the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*.

(*e*) [1] elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf."

3. (*1*) In sections 19-A and 19-E of the said Act, for the words "of the Province" the word "for the local area" shall be substituted. Amendment of sections 19-A, 19-H and 19-H, Act VII, 1870.

(*2*) In section 19-H, sub-section (*2*), of the said Act, for the same words the words "for the local area in which the High Court is situated" shall be substituted.

ACT No. XI OF 1901.[2]

[*25th October 1901.*]

An Act to facilitate the citation of certain enactments and to amend and repeal certain obsolete enactments.

WHEREAS is expedient to facilitate the citation of the enactments specified in the First Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act;

[3] * * * * * * * *

It is hereby enacted as follows:—

1. (*1*) This Act may be called the [3] * * * Amending Act, 1901; and Title and commencement.

(*2*) It shall come into force at once.

2. Each of the enactments specified in the first three columns of the First Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. Citation of certain enactments.

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[1] As to the North-West Frontier Province, *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punj. Code.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 117; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 218 and 219.

[3] The last paragraph of the preamble and the words "Repealing and" in section 1, were repealed by the Repealing and Amending Act, 1903 (I of 1903).

(*The First Schedule*).

Enactments amended and enactments repealed.

3. (*1*) The enactments specified in the Second Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

[1] * * * * * * * * *

4. [*Savings.*] *Rep. by the Repealing and Amending Act, 1903* (*I of 1903*).

THE FIRST SCHEDULE.

CITATION OF ENACTMENTS.

(*See section 2.*)

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations.	
1802	III	A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adalat established in the several Zillas immediately subject to the Presidency of Fort St. George.	The Madras Administration of Estates Regulation, 1802.
„	XIX	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land, or dependent Taluqdars or Farmers of land, holding farms immediately of Government; or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties.	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.
„	XXV	A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under the permanent assessment of the land-revenue in the British territories subject to the Presidency of Fort St. George.	The Madras Permanent Settlement Regulation, 1802.
„	XXVI	A Regulation for governing the sale and sub-division of malguzari lands in the British territories subject to the Presidency of Fort St. George.	The Madras Land-registration Regulation, 1802.

[1] Sub-section (*2*) of section 3 was repealed by the Repealing and Amending Act, 1903 (I of 1903).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year	No.	Subject.	Short title.
		Part I.— Madras Regulations—contd.	
1802	XXIX	A Regulation for establishing the office of Karnam, and defining the duties of the said office, in the British territories subject to the Presidency of Fort St. George.	The Madras Karnams Regulation, 1802.
1803	I	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	The Madras Board of Revenue Regulation, 1803.
„	II	A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.	The Madras Collectors Regulation, 1803.
1804	V	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the rules under which those powers are to be exercised.	The Madras Court of Wards Regulation, 1804.
1808	VII	A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State, by the sentence of Courts-martial.	The Madras State Offences Regulation, 1808.
1816	I	A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police, appropriable to the support of the new Police established, or to be established, in that Province, and for regulating the collection and assessment of those contributions.	The Tanjore Police Regulation, 1816.
„	V	A Regulation for authorizing Village Munsifs to assemble Village Panchayats for the adjudication of civil suits for sums of money or other personal property, without limitation as to amount or value, within their respective jurisdictions, and for defining the powers and authority to be vested in such Village Panchayats.	The Madras Village-panchayats Regulation, 1816.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1816	XI	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.	The Madras Village-police Regulation, 1816.
„	XII	A Regulation for authorizing Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary, as also certain disputes respecting the occupying, cultivating and irrigating of land to be tried and determined by Village and District Panchayats, and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Panchayats carried into execution.	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes, for the maintenance and repair of bridges, choultries or chattrams and other public buildings, and for the custody and disposal of escheats.	The Madras Endowments and Escheats Regulation, 1817.
„	VIII	A Regulation for expediting the trial of civil suits in which the Native officers and soldiers attached to regular Corps in the Madras Command may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims and interests.	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1819	II	A Regulation for the confinement of State Prisoners.	The Madras State Prisoners Regulation, 1819.
1821	IV	A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.	The Madras Village-police Regulation, 1821.
1822	IV	A Regulation declaring the true intent and meaning of Regulation XXV of 1802 so far as it relates to the rights of the actual cultivators of the soil.	The Madras Permanent Settlement (Interpretation) Regulation, 1822.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1822	VII	A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may, from time to time, see fit to issue.	The Madras Native Public Officers Regulation, 1822.
„	IX	A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs, for prescribing the rules to be observed in such investigations and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collector's jurisdiction, and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.	The Madras Revenue Malversation Regulation, 1822.
1823	III	A Regulation for declaring the powers of Subordinate and Assistant Collectors in the execution of the provisions of Regulation IX of 1822.	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts and for facilitating proceedings under Regulation IX of 1822.	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1829	V	A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law according to the authorities prevalent in the respective Provinces under this Government.	The Madras Hindu Wills Regulation, 1829.
1830	I	A Regulation for declaring the practice of Sati or of burning or burying alive the Widows of Hindus illegal and punishable by the Criminal Courts.	The Madras Sati Regulation, 1830.
1831	V	A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.	The Madras Stamp Penalties Regulation, 1831.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—concld.	
1831	VI	A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.	The Madras Hereditary Offices Regulation, 1831.
„	X	A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.	The Madras Sale of Minors Estates Regulation, 1831.
1832	III	A Regulation for limiting the period within which plaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible to the Courts of Adalat.	The Madras Revenue Malversation (Amendment) Regulation, 1832.
		Part II.—Acts of the Governor General in Council.	
1837	XXXVI	An Act to extend the application of Madras Regulations IX of 1822 and VII of 1828.	The Madras Public Property Malversation Act, 1837.
1839	VII	An Act to invest Tahsildars within the Presidency of Fort St. George with certain powers in respect of property distrained for arrears of rent or revenue.	The Madras Rent and Revenue Sales Act, 1839.
„	XXIV	An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.	The Ganjam and Vizagapatam Act, 1839.
1840	VIII	An Act concerning the signing of awards by the members of Panchâyats.	The Madras Panchâyats Act, 1840.
1844	VI	An Act for the levy of inland customs-duties within the territories subject to the Government of Fort St. George.	The Madras Inland Customs Act, 1844.
1849	X	An Act for appointing a Commissioner of Revenue at Madras.	The Madras Revenue Commissioner Act, 1849.
1851	XII	An Act for securing the land-revenue of Madras.	The Madras City Land-revenue Act, 1851.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—contd.	
1854	XXIV	An Act to prohibit the possession of certain offensive weapons in Malabar.	The Malabar War-knives Act, 1854.
1855	XXI	An Act for making better provision for the education of male Minors and the marriage of male and female Minors subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.	The Madras Minors Act, 1855.
1857	VII	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	The Madras Uncovenanted Officers Act, 1857.
„	XXVII	An Act to establish and incorporate an University at Madras.	The Madras University Act, 1857.
1858	I	An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.	The Madras Compulsory Labour Act, 1858.
1859	XX	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	The Moplah Outrages Act, 1859.
„	XXIV	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	The Madras District Police Act, 1859.
1865	XXX	An Act to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of irrigation.	The Madras Irrigation and Canal Company Act, 1865.
1877	XIX	An Act to enable certain District Judges to suspend and remove certain ministerial officers and for other purposes.	The Madras Civil Courts (Amendment) Act, 1877.
1882	XXI	An Act to remove doubts regarding the Madras Forest Act, 1882.	The Madras Forest (Validation) Act, 1882.

(*The First Schedule.*)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—concld.	
1884	II	An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.	The Madras Partition-deeds (Validation) Act, 1884.
1889	V	An Act to abolish the office of Coroner of Madras.	The Coroners (Madras) Act, 1889.
		Part III.—Acts of the Governor of Fort St. George in Council.	
1862	IV	An Act to exempt enfranchised inams from the operation of Regulation IV of 1831 and Acts XXXI of 1836 and XXIII of 1838.	The Madras Enfranchised Inams Act, 1862.
1864	II	An Act to consolidate the laws for the recovery of Arrears of Revenue in the Madras Presidency.	The Madras Revenue Recovery Act, 1864.
1865	I	An Act to provide for the alteration of the limits of Districts or Zilas in the Madras Presidency.	The Madras District Limits Act, 1865.
"	V	An Act to amend Act XXIV of 1859	The Madras District Police (Amendment) Act, 1865.
"	VI	An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.	The Madras Official Seals Act, 1865.
"	VII	An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.	The Madras Irrigation Cess Act, 1865.
"	VIII	An Act to consolidate and improve the laws which define the process to be taken for the recovery of rent.	The Madras Rent Recovery Act, 1865.
1866	II	An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.	The Madras Cattle-disease Act, 1866.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—contd.			
1866	IV	An Act to exempt enfranchised Village or other Service Inams, whether Revenue or Police, from the operation of Regulation VI of 1831.	The Madras Enfranchised Inams Act, 1866.
„	V	An Act to regulate the manner of engaging and contracting with Native inhabitants, within any of the districts subject to the Government of Fort St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras.	The Madras Labour and Emigration Act, 1866.
1867	VI	An Act to amend Act XII of 1851 (*an Act for securing the Land-revenue of Madras*).	The Madras City Land-revenue (Amendment) Act, 1867.
1869	III	An Act to empower Revenue-officers to summon persons to attend at their Kachahris for the settlement of matters connected with Revenue administration.	The Madras Revenue Summonses Act, 1869.
„	VIII	An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.	The Madras Inams Act, 1869.
1871	II	An Act to declare the meaning of clause 4, section 11 of Madras Act VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1871.
„	VII	An Act to amend Madras Act V of 1863 (*an Act to prevent damage to the Madras Pier, to regulate the traffic and to provide for the levying of tolls upon the same, and to provide for its extensions to other piers*).	The Madras Pier (Amendment) Act, 1871.
1873	I	An Act to prevent the indiscriminate destruction of Wild Elephants.	The Madras Wild Elephants' Preservation Act, 1873.
1876	I	An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.	The Madras Land-revenue Assessment Act, 1876.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part III.—Acts of the Governor of Fort St. George in Council—contd.	
1878	VII	An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.	The Madras Municipal Police Act, 1878.
1879	I	An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).	The Madras Cattle-disease (Amendment) Act, 1879.
1884	III	The Madras Revenue Recovery Act Amendment Act.	The Madras Revenue Recovery (Amendment) Act, 1884.
[1]	*	* * * *	* * *
1885	II	An Act to amend the Madras Rivers Conservancy Act, 1884.	The Madras Rivers Conservancy (Amendment) Act, 1885.
1886	III	An Act to amend Madras Act II of 1886 .	The Madras Harbour Trust (Amendment) Act, 1886.
1890	III	An Act to amend the Madras Local Boards Act, 1884, and the Madras Rent Recovery Act, 1865.	The Madras Local Boards and Rent Recovery (Amendment) Act, 1890.
1892	I	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1892.
[1]	*	* * * *	* * *
1893	II	An Act to amend section 13 of the Land Customs Act, VI of 1844.	The Madras Inland Customs (Amendment) Act, 1893.
„	V	An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.	The Madras Revenue Enquiries Act, 1893.
1894	I	An Act to provide further for the conduct of business by the Board of Revenue.	The Madras Board of Revenue Act, 1894.
1895	II	An Act to amend Madras Act II of 1890 .	The Madras Canals and Public Ferries (Amendment) Act, 1895.

[1] The entries relating to Mad. Acts VII of 1884 and II of 1892 were repealed by the Madras City Municipal Act, 1904 (Mad. Act III of 1904).

THE FIRST SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—contd.			
1896	I	An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1896.
„	II	An Act to amend the Madras General Clauses Act, I of 1891.	The Madras General Clauses (Amendment) Act, 1896.
1897	I	An Act to amend the Madras Revenue Recovery Act, II of 1864.	The Madras Revenue Recovery (Amendment) Act, 1897.
„	II	An Act to amend Madras Act No. III of 1895 (the Madras Hereditary Village-offices Act, 1895).	The Madras Hereditary Village-offices (Amendment) Act, 1897.
1898	I	An Act to amend the Malabar Marriage Act, 1896.	The Malabar Marriage (Amendment) Act, 1898.
„	II	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1898.
„	III	An Act to amend the Madras City Police Act, 1888.	The Madras City Police (Amendment) Act, 1898.
1899	I	An Act to amend Madras Act IV of 1884.	The Madras District Municipalities (Amendment) Act, 1899.
[1]	*	* * * *	* * *
1899	IV	An Act to amend Madras Regulation V of 1884.	The Madras Court of Wards (Amendment) Act, 1899.
1900	III	An Act to amend the Madras Harbour Trust Act, 1885.	The Madras Harbour Trust (Amendment) Act, 1900.
„	IV	An Act to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Survey and Boundaries Act, 1897.	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.
„	V	An Act to amend Madras Act VII of 1865.	The Madras Irrigation Cess (Amendment) Act 1900.

[1] The entry relating to Mad. Act II of 1899 was repealed by the Madras City Municipal Act, 1904 (Mad. Act III of 1904).

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

[*See section 3, sub-section (1).*]

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Madras Regulations.	
1802	XXVI	The Madras Land Registration Regulation, 1802.	In the title, *for the words* sale and subdivision of Málguzárí lands *substitute* registration of landed estates paying revenue to the Government. In the preamble, *omit the words from* Whereas it is necessary *to* such lands; and; *and for the words* such land *substitute* landed estates paying revenue to the Government.
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.	For the title as amended by the Repealing and Amending (Army) Act, 1894, *substitute the following:* A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	In the title, *for the words and figures* Regulations XXV, XXVIII and XXX of 1802, so far as they relate, *read* Regulation XXV of 1802, so far as it relates. In section 2, *for the words and figures* Regulations XXV, XXVIII and XXX of 1802, *read* Regulation XXV of 1802.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	For the title *substitute the following:* A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.
1829	V	The Madras Hindu Wills Regulation, 1829.	In the preamble, *for the words* clause second of the said section, *read* clause second of section 16 of the Madras Administration of Estates Regulation, 1802.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part II.—Act of the Governor General in Council.	
1899	XIII	The Glanders and Farcy Act, 1899.	To section 2, sub-section (*1*), *add* either generally or in respect of any local area.
		Part III.—Acts of the Governor of Fort St. George in Council.	
1862	IV	The Madras Enfranchised Inams Act, 1862.	For the title, *substitute the following* : An Act to declare what shall be proof of the enfranchisement of inams.
1866	V	The Madras Labour (and Emigration Act, 1866.	To section 21 *add* But nothing in this Act shall apply to the emigration of labourers to any of the labour-districts in the Province of Assam from any local area to which the provisions of the Assam Labour and Emigration Act, 1901, for the time being apply.
1884	V	The Madras Local Boards Act, 1884.	In section 3, clause (xiv), as substituted by section 5 of the Madras Local Boards Act Amendment Act, 1900, *for the figures* 1882 *substitute* 1898.

THE THIRD SCHEDULE.

ENACTMENTS REPEALED.

[*Rep. by the Repealing and Amending Act, 1903* (*I of 1903*).]

THE CANTONMENTS (HOUSE-ACCOMMODATION) ACT, 1902 (II OF 1902).

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

APPLICATION OF ACT.

SECTIONS.

3. Cantonments, or parts of cantonments, in which Act to be operative.
4. Saving of written instruments.

CHAPTER III.

APPROPRIATION OF HOUSES FOR OCCUPATION BY MILITARY OFFICERS.

5. Liability of houses to appropriation for occupation by military officers.
6. Appropriation of house for military officer, where not already occupied by a military officer.
7. Appropriation of house for regimental military officer, where already occupied by departmental military officer.
8. Procedure to be observed before appropriating house.
9. Notice to state that reasonable rent is offered.
10. Sanction to be obtained before a house is occupied as a hospital, bank, hotel, shop or school, or by a railway administration.
11. Houses not to be appropriated for military officers in certain cases.
12. Time to be allowed for giving possession of house.
13. Surrender of house when to be enforced.
14. Option in certain cases for owner on whom notice is issued under section 6 or section 7 to call upon the military officer concerned or the Government to purchase.
15. Provision where tenant required to vacate holds under a long lease.
16. Terms of tenancy applicable to military officers.
17. Sub-lease voidable at option of owner.
18. Power for owner to require reference to arbitration on question of rent.
19. Power for owner to require reference to arbitration on question of repairs.
20. Power for military tenant to require reference to arbitration on question whether house has become unfit for occupation.
21. Power for either owner or military tenant to require reference to arbitration on other questions.
22. Power for military tenant to have repairs executed and recover cost.
23. Notice to be given of devolution of interest in house in cantonment.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

24. Convening of Committees of Arbitration in cases falling under section 14, sub-section (*2*).
25. Convening of Committees of Arbitration on requisition of owners.
26. Convening of Committees of Arbitration on requisition of military officers.

SECTIONS.

27. Procedure for convening Committees of Arbitration generally.
28. Constitution of Committees of Arbitration.
29. Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.
30. Meeting and powers of Committees of Arbitration.
31. Powers of Chairman of Committee of Arbitration as to meetings.
32. Calculation of amount of purchase-money by Committees of Arbitration.
33. Calculation of rent by Committees of Arbitration.
34. Decisions of Committees of Arbitration.

CHAPTER V.

APPEALS.

35. Appeal when allowed.
36. Petition of appeal.
37. Order in appeal final.
38. Suspension of action pending appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

39. Recovery of rents from military tenants in cantonments.
40. Service of notices and requisitions.
41. Power for Governor General in Council to make rules.
42. Further provisions respecting rules.
43. Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences against rules.
44. Protection to persons acting under Act.

ACT No. II OF 1902[1].

[*14th February 1902.*]

An Act to make better provision for securing house-accommodation for military officers in cantonments.

WHEREAS various conditions, rules, regulations and orders have from time to time been laid down by, or by the authority of, the Government in regard to the grant of land and the occupation of land and houses in cantonments, with the object of securing, amongst other things, that houses built on such land should be made available when required for the accommodation of military officers;

And whereas, notwithstanding the said conditions, rules, regulations and orders, difficulties have frequently been experienced in obtaining house-accommodation in cantonments for military officers, and it is expedient to make better provision for that purpose;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 364; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 9; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 395; *ibid*, 1901, p. 220; *ibid*, 1902, Pt. VI, pp. 2 and 112.

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments (House-Accommodation) Act, 1902.

(*2*) It extends to the whole of British India (inclusive of British Baluchistan), except Aden ; and

(*3*) It shall come into force at once, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Cantonment Authority" means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted, or has ceased to exist, or cannot be convened, the Commanding Officer of the cantonment :

[1][(*b*) "Division" means one of the Divisions into which the Army in India is, for the time being, divided, and includes the Bannu, Derajat and Kohat Independent Brigades ;

(*c*) "Officer Commanding the Division" means the Officer Commanding a Division, and includes the Officers Commanding the Bannu, Derajat and Kohat Brigades ;]

(*d*) "House" means a house suitable for occupation by a military officer and includes the land and buildings appurtenant to such house :

(*e*) "military officer" means a commissioned or warrant officer of His Majesty's regular forces on military duty in a cantonment, and includes a Chaplain, a Cantonment Magistrate and any person in Army departmental employment whom the [2][Officer Commanding the Division] may at any time, for the purposes of this Act, place on the same footing as a military officer :

(*f*) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant : and

(*g*) the expression "repairs" to a house includes such repairs as are usually made to houses in the neighbourhood, but does not include

[1] Substituted for the original clauses by the Amending (Army) Act, 1909 (V of 1909), General Act, Vol. VI, Appendix.

[2] Substituted for the words "General Officer of the Command by *ibid.*"

additions, improvements or alterations, except in so far as they are necessary to carry out such repairs as aforesaid or have been made with the owner's consent.

(*2*) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Cantonment Magistrate, whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II.

APPLICATION OF ACT.[1]

Cantonments or parts of cantonments in which Act to be operative.

3. (*1*) The [Local Government, with the previous sanction of the Governor General in Council, may, by [1] notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the territories under its administration, other than a cantonment situate within the limits of a Presidency-town.

(*2*) Before issuing a notification under sub-section (*1*) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of written instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

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[1] For notification by the (*1*) Government of Bombay in respect of the Belgaum and Ahmedabad Cantonments, *see* Bombay Government Gazette, 1902, Pt. I, p. 2044, and *ibid*, 1903, Pt. I, p. 887, *ibid*, 1904, Pt. I, p. 245; the Ahmednagar Cantonment in the same Presidency, see *ibid*, 1903, Pt. I, p. 1367; (*2*) Chief Commissioner, Ajmer-Merwara, in respect of the Nasirabad Cantonment except the area owned by the European and American Mission Associations, *see* Gazette of India, 1903, Pt. II, p. 587; and (*3*) Chief Commissioner, Central Provinces, in respect of the Cantonment of Kamptee, *see* Central Provinces Gazette, 1903, Pt. III, p. 165; and of Jubbulpore and Pachmari, *ibid*, p. 251; (*4*) Lieutenant Governor of the United Provinces of Agra and Oudh, in respect of the Cantonments of Lucknow, Sitapore, Muttra, Chakrata, Roorki, Lansdowne, Jhansi and Meerut, *see* United Provinces Gazette, 1903, Pt. I, p. 789; as to Fyzabad and a portion of the Agra Cantonment, *see ibid*, Pt. I, p. 899; as to portions of the Cawnpore Cantonment, *ibid*, 1904, Pt. I, 201; as to that portion of the Benares Cantonment which lies west of the Mall Road except two bungalows, *ibid*, p. 723; (*5*) the Government of Bengal with respect to the Dinapore Cantonment, *see* Calcutta Gazette, 1903, Pt. I, p. 1365; (*6*) Madras, with respect to Bellary (portion), Vallavaram (portion), Poonamallee (portion), St. Thomas's Mount (portion), Wellington and part of the Trichinopoly Cantonment, *see* Mad. R. and O.; (*7*) Punjab, in respect of the Cantonments of Mian Mir, Ambala, Jullunder, Multan, Delhi, Jhelum, Sabathu, Dagshai, Solon, Jutogh and Bakloh, *see* Punjab Gazette, 1904, Pt. I, p. 816; certain parts of the Amritsar Cantonment, *see ibid*, 1903, Pt. I, p. 296; Cantonment of Sialkot, *ibid*, 1906, Pt. I, p. 1105; (*8*) North-West Frontier Province, in respect of the Cantonments of Peshawar, Nowshera, Mardan, Abbottabad, Kohat, Bannu and Dehra Ismail Khan, *see* Gazette of India, 1905, Pt. II, p. 738.

For notification by the Government of India under the Indian (Foreign Jurisdiction) Order in Council, 1902, in respect of the Cantonment of Secunderabad, *see* Gazette of India, 1903, Pt. I, p. 879.

CHAPTER III.

APPROPRIATION OF HOUSES FOR OCCUPATION BY MILITARY OFFICERS.

Liability of houses to appropriation for occupation by military officers.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (*1*), is for the time being in force, shall be liable, subject to the provisions hereinafter contained, to appropriation at any time for occupation by a military officer.

Appropriation of house for military officer, where not already occupied by a military officer.

6. Where the Cantonment Authority, on application made to it as hereinafter provided by section 8 and subject to the requirements of that section, considers that the liability imposed by section 5 should be enforced on behalf of a military officer, it may, if the house is not already occupied by a military officer, by notice—

(*a*) require the owner to let the house to the military officer named in the notice, and

(*b*) require the existing occupier (if any) to vacate the same.

Appropriation of house for regimental military officer, where already occupied by departmental military officer.

7. If a house is already occupied by a departmental military officer, and the Cantonment Authority, on application made to it as hereinafter provided by section 8 and subject to the requirements of that section, considers that the liability imposed by section 5 should be enforced on behalf of a regimental officer, or *vice versâ*, it may, by notice, require the officer in occupation to vacate the house; and may, if necessary, by further notice require the owner to accept the change of tenancy.

Procedure to be observed before appropriating house.

8. (*1*) Where a military officer considers that a notice should be issued in his behalf under section 6 or section 7, as the case may be, he may request the Commanding Officer of his regiment, or (in the case of a departmental military officer) the local head of his department, to make an application to that effect to the Cantonment Authority.

(*2*) On receipt of an application made under sub-section (*1*), the Cantonment Authority shall inquire into the case, and it shall not issue the notice applied for unless it is satisfied—

(*a*) that it is necessary or expedient for the military officer to reside in the cantonment, or, if this Act is in force in part of the cantonment only, then in that part;

(*b*) that the circumstances are such as to require its intervention;

(*c*) that the monthly rent proposed for the house is reasonable; and

(*d*) that the house is suitable for the residence of the officer and, if it is occupied, that there is no vacant house in the cantonment or the said part of the cantonment, as the case may be, which is suitable for his residence.

Explanation I.— Where the rent of a house is registered in the office of the Cantonment Authority, the rent so registered shall be presumed, until the contrary is shown, to be the reasonable rent for the house.

Explanation II.—In considering whether a house is suitable for the residence of a military officer, regard shall be had to—

(i) the locality in which his duties chiefly lie,

(ii) his rank, and

(iii) the number of persons dependent upon, and residing with, him.

Notice to state that reasonable rent is offered.

Every notice to an owner issued under section 6 or section 7 shall state the amount of monthly rent proposed as reasonable for the house.

Sanction to be obtained before a house is occupied as a hospital, bank, hotel, shop or school or by a railway administration.

10. (*1*) No house in any cantonment or part of a cantonment in which this Act has been declared by a notification under section 3, sub-section (*1*), to be operative shall, unless it was so occupied at the date of such notification, be occupied for the purposes of a hospital, bank, hotel, shop or school, or by a railway administration, without the previous sanction of the [1][Officer Commanding the Division] given with the concurrence of the Local Government.

(*2*) Before application is made for such sanction as aforesaid, the Commanding Officer of the cantonment shall certify whether or not in his opinion the number of houses in the cantonment, as compared with the strength of the existing or probable garrison, renders it likely that such occupation as aforesaid would—

(*a*) cause any difficulty in obtaining accommodation in the cantonment, or in the part of the cantonment in which the house is situate, for military officers, or

(*b*) necessitate the acquisition of land at some future time for the extension of the cantonment.

Houses not to be appropriated for military officers in certain cases.

11. No notice shall be issued under section 6 if the house—

(*a*) was occupied prior to the date of a notification under section 3, sub-section (*1*), declaring the Act to be operative in the cantonment or part of the cantonment, or is occupied with the sanction required by section 10, as a hospital, bank, hotel, shop or school, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(*b*) was occupied prior to the date of such a notification as is referred to in clause (*a*), or is occupied, with the sanction aforesaid, by a railway administration, or

[1] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (IV of 1909), General Acts, Vol. VI, Appendix.

(*c*) is occupied by the owner, or

(*d*) is appropriated[1], by the Local Government, with the concurrence of the [2][Officer Commanding the Division], or by the Governor General in Council, for use as a public office or for any other purpose.

Time to be allowed for giving possession of hou es.

12. (*1*) If a house is unoccupied, a notice issued under section 6 may require the owner to give possession of the same to the proposed tenant within four days from the service of the notice.

(*2*) If a house is occupied, a notice issued under section 6 or section 7 shall not require its vacation in less than thirty days from the service of the notice.

Surrender of house when to be enforced.

13. If the owner fails to give possession of a house to the proposed tenant in pursuance of a notice issued under section 6 or section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the Cantonment Magistrate, by himself or by another person generally or specially authorized by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Option in certain cases for owner on whom notice is issued under section 6 or section 7 to call upon the military officer concerned or the Government to purchase.

14. (*1*) If a house in respect of which a notice is issued under section 6 or section 7 is shown to the satisfaction of the Local Government, or is proved by a decree or order of a Court of competent jurisdiction, to have been erected—

(*a*) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or

(*b*) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June 1875, and conferred such an option as is described in clause (*a*),

then the owner shall have the option of either complying with the notice or offering the house for sale to the military officer in whose behalf the notice was issued, or to the Government.

(*2*) If the owner elects to sell the house, and such military officer or the Government is willing to purchase it, the amount of the purchase-money to be paid shall, in the event of disagreement, be determined by a Committee of Arbitration.

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[1] For list of houses so appropriated by the Government of Punjab, *see* Punjab Gazette, 1901, Pt. I, p. 816; *ibid*, 1906, Pt. I, p. 1103.

[2] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

Provision where tenant required to vacate holds under a long lease.

15. (*1*) If a house is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, or from year to year, no notice shall be issued under section 6 or section 7 without the previous sanction of the Officer Commanding the [1][Division].

(*2*) If a house, in respect of which a notice is issued under section 6 or section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease, whichever is the shorter, be liable to the owner for the rent payable under this Act or, if no rent is so payable, for the rent fixed by the registered lease.

(*3*) If a house, in respect of which notice is issued under section 6 or section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(*4*) Nothing in this section shall be deemed—

(*a*) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Cantonment Authority within fifteen days from the service of the notice ; or

(*b*) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

Terms of tenancy applicable to military officers.

16. (*1*) Subject to the terms of any agreement in writing between an owner and a military officer, and to the provisions of this section, every lease of a house to such an officer shall be deemed to be a lease from month to month, terminable,—

(*a*) without notice, in the case of a Committee of Arbitration deciding as hereinafter provided, that the house has become unfit for occupation,

(*b*) by half a month's notice to the owner, in the case of the departure of the officer from the cantonment on duty or under medical certificate, and

(*c*) by one month's notice to the owner, in any other case.

[1] Substituted for the word "District" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

(*2*) The Cantonment Magistrate shall, if the military officer so desires, cause the notice required by sub-section (*1*), clause (*b*) or clause (*c*), to be served on the owner.

(*3*) Where a military officer has, in pursuance of sub-section (*1*), clause (*a*), given up his occupation of a house without notice and has occupied the house during a portion only of the calendar month in which his occupation ceased, he shall be liable to pay as rent for that portion a sum bearing the same proportion to the monthly rent as the said portion bears to the whole month.

(*4*) Where a notice in respect of a house has been issued under section 6 or section 7 and the house has been vacated in pursuance thereof, the tenancy of the military officer in whose behalf the notice was issued shall be deemed to have commenced on the date on which the house was vacated.

Sub-lease voidable at option of owner.

17. If the tenant of a house, being a military officer, sub-lets the same without the consent of the owner, the sub-lease shall be voidable at the option of the owner.

Power for owner to require reference to arbitration on question of rent.

18. (*1*) If the owner considers that the rent stated in a notice in accordance with section 9 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

(*2*) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

(*3*) The rent fixed by a Committee of Arbitration or accepted by the owner under this section shall be deemed to be the rent payable by the military officer in whose behalf the notice was issued, as from the commencement of his tenancy, and the amount of such rent shall not be called in question by either party, except in the circumstances mentioned in section 21, clause (*a*).

Power for owner to require reference to arbitration on question of repairs.

19. (*1*) If the owner fails to execute any repairs to a house which the tenant, being a military officer, considers necessary, the Cantonment Authority may, at the request of the tenant and if it is satisfied that such repairs or any of them are necessary, by notice require the owner to execute such repairs or such of them as it may consider necessary, within a period, not less than fifteeen days, to be specified in the notice.

(*2*) If the owner objects to comply with a notice issued under sub-section (*1*), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for military tenant to require reference to arbitration on question whether house has become unfit for occupation.

20. If the tenant of a house being a military officer, considers that his lease should be terminable without notice in consequence of the house having become unfit for occupation, he may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for either owner or military tenant to require reference to arbitration on other questions.

21. If the owner and the tenant of a house, being a military officer, disagree—

(*a*) as to any change in the rent of the house which is proposed in consequence of dilapidations or additions to buildings or for any other similar reason, or

(*b*) on any matter relating to rent or repairs not otherwise provided for by this Act,

either the owner or the tenant may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

22. Where—

Power for military tenant to have repairs executed and recover cost.

(*a*) the owner fails to comply with a notice issued under section 19, sub-section (*1*), and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

(*b*) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period,

the Military Works Services or the Public Works Department shall, on the application of the tenant of the house, being a military officer, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee, to be executed at the expense of the tenant, and the tenant may deduct the cost thereof from the rent, or otherwise recover it from the owner.

Notice to be given of devolution of interest in house in cantonment

23. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (*1*), is for the time being in force shall be bound to give the Cantonment Magistrate notice of the fact within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

Convening of Committee of Arbitration in cases falling under section 14, sub-section (2).

24. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under section 14, sub-section (*2*), the Cantonment Authority shall apply to the Commanding Officer of the cantonment to refer the matter to a Committee of Arbitration, and the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

Convening of Committees of Arbitration on requisition of owners.

25. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 18, section 19 or section 21, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration—

(*a*) to determine the amount of monthly rent to be paid, or

(*b*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*c*) otherwise to determine the question in dispute.

Convening of Committees of Arbitration on requisition of military officers.

26. (*1*) Where a requisition is made to the Commanding Officer of the cantonment by a military officer under section 20 or section 21, the Commanding Officer of the cantonment may, after such inquiry as he may think fit to make, proceed to convene a Committee of Arbitration—

(*a*) to determine whether the house has become unfit for occupation, or

(*b*) to determine the amount of monthly rent to be paid, or

(*c*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*d*) otherwise to determine the question in dispute.

(*2*) In the exercise of the discretion vested in him by sub-section (*1*) the Commanding Officer of the cantonment may refuse to convene a Committee of Arbitration on the ground that the application therefor is groundless or frivolous.

Procedure for convening Committees of Arbitration generally.

27. (*1*) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall forthwith cause an order to be published in Station Orders, stating the matter to be determined.

(*2*) The Cantonment Magistrate shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and shall forthwith by notice require the parties to nominate members of the Committee in accordance with the provisions of sections 28 and 29.

Constitution of Committees of Arbitration.

28. Every Committee of Arbitration shall consist of—

(*a*) a chairman, who shall be the District Magistrate, or, if the District Magistrate is unable to act on the Committee, some Magistrate, being a Justice of the Peace or Magistrate of the first class, and not being the Cantonment Magistrate, appointed by the District Magistrate to act in his stead;

(*b*) a member to be nominated by the military officer concerned; and

(*c*) a member to be nominated by the owner concerned:

Provided that, if the military officer and the owner, at any time before the meeting of the Committee, join in nominating, by notice to the Cantonment Magistrate, any other person as chairman, such person shall be the chairman instead of the District Magistrate or the Magistrate (if any) appointed by the District Magistrate under clause (*a*); and

Provided, also, that,—

(*i*) if the officer or the owner fails, without reasonable cause, to nominate a member within seven days from the date on which he may be called upon to do so, or,

(*ii*) if any member, who has been nominated, neglects or refuses to act, and the officer or the owner, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called upon to do so,

the District Magistrate shall forthwith appoint a member in the place of the nominee of the officer or owner, as the case may be.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

29. (*1*) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee, shall be nominated or appointed a member of a Committee of Arbitration.

(*2*) If any person who has been nominated has, in the opinion of the District Magistrate, a direct interest in the matter under reference, or if his services are not immediately available as aforesaid, and if the officer or the owner, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called on so to do, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 28.

Meeting and powers of Committees of Arbitration.

30. (*1*) When a Committee of Arbitration has been duly constituted, the Cantonment Magistrate shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(*2*) The Committee shall have power to receive evidence and to administer oaths to witnesses, and the Cantonment Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

Powers of chairman of Committee of Arbitration as to meetings.

31. The chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time, as may be necessary.

Calculation of amount of purchase-money by Committees of Arbitration.

32. In determining the amount of the purchase-money to be paid for a house to be sold under section 14, sub-section (*2*), the Committee of Arbitration convened under section 24 shall estimate the market-value of the house at the date on which the notice was served on the owner under section 6 or section 7, as the case may be.

Calculation of rent by Committees of Arbitration.

33. Subject to the presumption mentioned in the first explanation to section 8, in determining the amount of monthly rent to be paid for a house, the Committee of Arbitration shall estimate the letting-value of the house, and shall have regard to, amongst other things, the circumstances of the neighbourhood and the period of time and season for which the house is likely to be occupied during the year.

Decisions of Committees of Arbitration.

34. (*1*) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least one of the other members are present.

(*2*) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(*3*) The decision of a Committee of Arbitration shall be final.

CHAPTER V.

APPEALS.

Appeal when allowed.

35. (*1*) If any owner or any tenant of a house is aggrieved by a notice issued under section 6 or section 7, he may appeal to the [1][Officer Commanding the Division.]

(*2*) No such appeal shall be admitted unless made within a peroid of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the [2]Indian Limitation Act, 1877, XV of 1877. with respect to the computation of periods of limitation thereunder.

[1] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

[2] *See* now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

Petition of appeal.

36. (*1*) Every petition of appeal shall be in writing and accompanied by a copy of the notice appealed against.

(*2*) Any such petition may be presented to the Cantonment Authority; and that Authority shall be bound to forward it to the [1][Officer Commanding the Division] and may attach thereto any report which it may desire to make in explanation of the notice appealed against.

(*3*) If any such petition is presented direct to the [1][Officer Commanding the Division] and an immediate order on the petition is not necessary, the [1][Officer Commanding the Division] may refer the petition to the Cantonment Authority for report.

Order on appeal final.

37. The decision of the [1][Officer Commanding the Division] on any such appeal shall be final:

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard.

Suspension of action pending appeal.

38. Where an appeal from a notice has been presented within the period prescribed by section 35, sub-section (*2*), all action on such notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Recovery of rents from military tenants in cantonments.

39. (*1*) If a military officer is given possession of a house in pursuance of a notice issued under section 6 or section 7, the rent payable by such officer under this Act shall be registered by the Cantonment Authority in a register to be maintained in such form as the Local Government may, by rule [2], prescribe.

(*2*) If such officer fails, before the fifteenth day of any month, to pay the rent so registered and due from him in respect of the month immediately preceding, the Cantonment Authority, if so satisfied, shall, on the application of the owner made before the end of the later month, report the matter, through the proper channel, to the Officer Commanding the [3][Division].

(*3*) The Officer Commanding the [3][Division] may, if he is satisfied that the amount claimed is still due, order that it be withheld from the salary and allowances of the defaulting officer, and, upon notice of the order to the officer whose duty it is to disburse such salary and allowances, such disbursing officer

[1] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

[2] For rule made by the Government of Eastern Bengal and Assam, *see* Notification No. 1253-G., dated 16th March, 1908, Eastern Bengal and Assam Gazette, 1908.

[3] Substituted for the word "District" by the Amending (Army) Act, 1909, General Acts, Vol. VI, Appendix.

shall, unless such salary and allowances are under attachment by order of a Civil Court, withhold and remit to the Cantonment Authority, for payment to the owner, the amount specified in the order.

(*4*) If, within two months from the date of an application made by the owner under sub-section (*2*) on which the Officer Commanding the [1][Division] has made an order under sub-section (*3*), the amount of the rent in respect of which such application and order were made is not paid to the owner, the Cantonment Magistrate shall, on the application of the owner, require the defaulting officer to vacate the house within four days, and, if such officer fails to do so, the Cantonment Magistrate shall, by himself or by another person generally or specially authorized by him in this behalf, enter on the premises and enforce the surrender of the house.

Service of notice and requisitions.

40. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or in the case of an owner who is absent from the cantonment, on his agent appointed under section 226 of the [2]Cantonment Code, 1899.

Power for Governor General in Council to make rules.

41. (*1*) The Governor General in Council may make rules[3] to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the procedure of Committees of Arbitration; and

(*b*) define the powers of inspection and entry which may be exercised in carrying out the purposes and objects of this Act or of any rule thereunder.

Further provisions respecting rules.

42. (*1*) The power to make rules unde section 41 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(*2*) Any rule under section 41 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts, as the Governor General in Council may direct.

(*3*) A copy of the rules under section 41 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

[1] Substituted for the word "District" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

[2] Published under Notification No. 664 J., dated the 16th June, 1899, *see* Gazette of India, 1899, Pt. I, p. 477. The Code has since been frequently amended.

[3] For rules made under this section, *see* Gen. R. and O., Gazette of India, 1906, Pt. I, p. 105.

(*4*) In making any rule under section 41, sub-section (*2*), clause (*b*), the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code,[1] in making any inspection or entry, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

XLV of 1860.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences against rules.

43. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898,[2] to be a party to, or personally interested in, any prosecution for an offence against any rule under this Act merely because he is a member of the Cantonment Committee or has ordered or approved the prosecution.

V of 1898.

Protection to persons acting under Act.

44. No suit or other legal proceeding shall lie against any person for any thing done, or in good faith intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

ACT No. III OF 1902[3].

[*14th February 1902.*]

An Act further to amend the Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships.

II of 1884.

WHEREAS it is expedient further to amend the [3]Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Steam-ships (Amending and Validating) Act, 1902.

VII of 1884.

Amendment of section 23, Act VII, 1884.

2. [4]In section 23 of the Indian Steam-ships Act, 1884[5], the word "foreign" where it first occurs, shall be omitted; for the words "at the port of survey" the words "at the port where the survey was made" shall be substituted; and in the proviso, after the words "in the case of" the words "a foreign steam-ship to" shall be inserted.

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[1] General Acts, Vol. I.
[2] *Supra.*
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 103; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 23; for Proceedings in Council, *see ibid*, 1901, Pt. VI, p. 214; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.
[4] This section is superseded by s. 4 of Act I of 1909, *see* General Acts, Vol. VI, Appendix.
[5] General Acts, Vol. III.

Amendment of section 25, Act VII, 1884.

3. In section 25 of the said Act, after the word "specified" the words "steam-ship or" shall be inserted, and for the words "to them" the word "thereto" shall be substituted.

Validation of certain certificates granted in Sind to engine-drivers of steam-ships.

4. All certificates of competency granted under the authority of the Commissioner in Sind between the first day of December 1885, and the third day of July 1900, to certify the competency of the grantees thereof to act as engine-drivers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884[1], and shall be recognised as valid for voyages of those classes with reference to which they were granted: VII of 1884.

Provided that nothing in this section shall be deemed to affect such certificates in any other respect.

ACT No. IV OF 1902[2].

[*14th February 1902.*]

An Act to apply the provisions of the Indian Railway Companies Act, 1895, to certain Tramway Companies.

WHEREAS by the Indian Railway Companies Act, 1895[3], the Railway Companies therein mentioned are authorized to pay interest on their paid-up share capital out of capital in the manner and on the conditions prescribed by the said Act; X of 1895.

And whereas it is expedient to apply the provisions of the said Act to Companies formed for the construction of tramways not differing in structure and working from light railways;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Tramways Act, 1902; and

(*2*) It extends to the whole of British India.

Application of Act X, 1895, to Tramway Companies.

2. The Governor General in Council may, by notification in the Gazette of India, direct that the provisions of the Indian Railway Companies Act[3], 1895, in so far as the same are applicable, shall apply to any Company formed for the construction of a tramway under the Bengal Tramways Act, 1883[4], or the Indian Tramways Act, 1886[1], and thereupon it shall be lawful for the Tramway Company mentioned in the notification to pay interest uponits paid-up share capital out of capital in the manner and subject to the conditions prescribed by the said Indian Railway Companies Act, 1895[3]. X of 1895. Ben. Act III of 1883. XI of 1886. X of 1895.

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[1] General Acts, Vol. III.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V. p. 105; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 27; for Proceedings in Council, *see ibid*, 1901, Pt. VI, p. 14; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.

[3] General Acts, Vol. IV.

[4] Ben. Code.

ACT No. V OF 1902[1].

[*14th February 1902.*]

An Act further to amend the Law relating to Administrators General and Official Trustees.

WHEREAS it is expedient further to amend the law relating to Administrators General and Official Trustees ; it is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Administrators General and Official Trustees Act, 1902 ; and

(*2*) It shall be deemed to have come in to force on the first day of January 1902.

Appointment of Deputy Administrator General and Official Trustee.

2. (*1*) The Government may appoint a Deputy to assist the Administrator General as Administrator General and, if he is also Official Trustee, as Official Trustee ; and the Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to perform any of the functions of the Administrator General as Administrator General or, if he is also Official Trustee, as Official Trustee.

(*2*) A Deputy appointed under sub-section (1) may be either a barrister or a solicitor or attorney, and, notwithstanding anything in the Administrator General's Act, 1874,[2] any Deputy so appointed may officiate as Administrator General.

II of 1874.

Remuneration of Administrator General as such and as Official Trustee.

II of 1874. XVII of 1864.

3. (*1*) Notwithstanding anything in the Administrator General's Act, 1874[2], or the Official Trustees Act, 1864,[3] the Administrator General may be remunerated by such fixed salary and allowances, and on such terms and subject to such conditions as the Governor General in Council may direct ; and, where he is so remunerated, he shall be entitled to no further remuneration whatsoever, but shall transfer and pay to such officer, in such manner, and at such times, as the Governor General in Council may, by general or special order, require, all moneys payable to and received by him as Administrator General or, if he is also Official Trustee, as Official Trustee, by way of commission or other remuneration for his service, and the same shall be carried to the account and credit of the Government for the general purposes of the Government ; and in such case all the expenses of the establishment necessary for the office of

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 391 ; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 31 ; for Proceedings in Council, *see ibid* 1901, Pt. VI p. 231 ; *ibid*, 1902, Pt. VI, pp. 6 and 21.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 (3) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), Ben. Code, *see* Calcutta Gazette, 1903, Pt. I, p. 255.

[2] General Acts, Vol. II.

[3] General Acts, Vol. I.

the Administrator General, and, if he is also Official Trustee, for that of Official Trustee, including the provision of office accommodation, together with all other charges to which the said office or offices may be subject, shall be defrayed by the Government.

(*2*) Nothing in this Act shall be deemed to render the Government or the Administrator General appointed after the commencement of this Act liable for anything done or purporting to be done by or under the authority of the Administrator General before the commencement of this Act, or, where the Administrator General is also Official Trustee, for anything done or purporting to be done by or under the authority of any Official Trustee appointed before the appointment of the Administrator General to be Official Trustee.

(*3*) The Government shall be deemed to be responsible for the civil liabilities of any Administrator General remunerated by such fixed salary and allowances as aforesaid as Administrator General or, if he is also Official Trustee, as Official Trustee.

(*4*) Notwithstanding anything in the Code of Civil Procedure[1], a suit to enforce any such civil liability as aforesaid shall be brought against the Administrator General as Administrator General or, if he is also Official Trustee, as Official Trustee, as the case may be, by his name of office; and no suit so brought shall abate by reason of the death, resignation, suspension or removal of the person holding the Office of Administrator General or Official Trustee. XIV of 1882.

Repeal of part of section 9, and section 56, Act II, 1874, and provisions regarding private executors and administrators.

4. (*1*) The second proviso to section 9, and section 56, of the Administrator General's Act, 1874[2], are hereby repealed.

(*2*) The High Court of Province may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate. II of 1874.

(*3*) No private executor or administrator shall be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1874[2]. II of 1874.

Power for High Court to give directions regarding administration of estate or trust.

5. (*1*) So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court at the Presidency-town may, on application made to it, give to such Administrator General any general or special directions in regard to any estate in his charge or any trust of which he is the Official Trustee, or in regard to the administration of any such estate or trust.

[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.
[2] General Acts, Vol. II.

(2) The High Court of the Province may, in like manner, give similar directions to any private executor or administrator other than the Administrator General acting officially.

III of 1874.

6. The High Court of the Province may make rules for assigning jurisdiction under the Administrator General's Act, 1874,[1] or the Official Trustee's Act, 1864,[2] to subordinate Courts, and for defining such jurisdiction.

Power for High Court to make rules assigning jurisdiction.

XVII of 1864.

7. The Administrator General acting as such or as Official Trustee, and any private executor or administrator, may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

General powers of administration.

(a) on such acts as may be necessary for the proper care and management of any property belonging to any estate or trust administered by him; and,

(b) with the sanction of the High Court at the Presidency-town in the case of the Administrator General, or with that of the High Court of the Province in the case of a private executor or administrator, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

II of 1874.

8. Notwithstanding anything in the Administrator General's Act, 1874,[1] or in any other enactment or rule of law for the time being in force, the Governor General in Council may, by general or special order, direct that, where a subject of a foreign State dies in British India and it appears that there is no one in British India, other than the Administrator General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any consular officer of such foreign State, be granted to such consular officer on such terms and conditions as the Court may, subject to any rules [3] made in this behalf by the Governor General in Council by notification in the Gazette of India, think fit to impose.

Provision for administration by consular officer in case of death in certain circumstances of foreign subject.

X of 1865.
I of 1889.

9. In section 256 of the Indian Succession Act, 1865,[2] as amended by section 6 of the Probate and Administration Act, 1889,[4] after the word "administration" the words and figures "other than a grant under section 212" shall be inserted.

Amendment of section 256, Act X, 1865.

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[1] General Acts, Vol. II.
[2] General Acts, Vol. I.
[3] For such rules made in respect of Japanese Consular Officers and Consular Officers of the United States of America, *see* Gen. R. and O.; Gazette of India, 1907, Pt. I, p. 373, and *ibid*, 1903, Pt. I, p. 95.
[4] General Acts, Vol. IV.

Act to be read with Acts II, 1874, and XVII, 1864.

10. This Act shall be read with, and taken as amending, the Administrator General's Act, 1874,[1] and the Official Trustees Act, 1864.[1] II of 1874. XVII of 1864.

ACT No. VII OF 1902.[2]

[*26th March 1902.*]

An Act to recognise and give effect to a change in the constitution and designation of the territories formerly known as the North-Western Provinces and Oudh.

WHEREAS the territories formerly administered by the Chief Commissioner of Oudh have been united under one Local Government with those administered by the Lieutenant-Governor of the North-Western Provinces;

And whereas it has been resolved that the territories so united in one Lieutenant-Governorship shall be known as "the United Provinces of Agra[3] and Oudh";

And whereas it is expedient to recognize and give effect to the change so made in the constitution and designation of the said territories;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the United Provinces (Designation) Act, 1902.

References in existing enactments to North-Western Provinces and Oudh.

2. In every enactment heretofore passed and now in force, and in every appointment, order, scheme, rule, by-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh shall be construed as referring to the United Provinces of Agra and Oudh, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of Agra and Oudh, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.

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[1] General Acts, Vol. II and Vol. I, respectively.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 63; for Proceedings in Council, *see ibid*, Pt. V I, pp. 51 and 54.

[3] *See* Proclamation, No. 996P., dated the 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228.

ACT No. VIII OF 1902[1].

[*7th June 1902.*]

An Act further to amend the Indian Tariff Act, 1894.

III of 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894[2]; It is hereby enacted as follows :—

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1902; and

[3] * * * *

Addition of new section 8B after section 8A, Act VIII, 1894.

2. After section 8A of the Indian Tariff Act, 1894, as[2] amended by the Indian Tariff Amendment Act, 1899,[4] the following section shall be added, namely :—

Special import-duty on sugar in certain cases.

[3] "8B. (*1*) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose,[5] in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

(*2*) The Governor General in Council may from time to time, by general or special order, declare, for the purposes of sub-section (*1*),—

(*a*) what articles or substances containing any saccharine matter shall be deemed to be "sugar" and what kinds of sugar shall be deemed to be "refined sugar" or "other sugar," respectively; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 68; for Proceedings in Council, *see ibid*, Pt. VI, pp 149 and 156.

[2] General Acts, Vol. IV.

[3] Sub-sec. (*2*), which was in the following terms, *viz.*, "It shall remain in force until the thirty-first day of August 1903", was repealed and s 8B (added to the Indian Tariff Act, 1894, by s. 2 of this Act), which had in virtue of that sub-section expired from the 31st August 1903, was revived and continued in force with effect from the first day of April 1904, by Act XI of 1904, (General Acts Vol. VI. Duties chargeable under this section were continued in force under s. 8C. of the Indian Tariff Act, 1894 (VIII of 1894), until the 31st March 1904. *See* s, 1 (*2*) of the Indian Tariff Amendment Act, 1903 (XII of 1903), *infra*.

[4] *Supra*.

[5] For notification imposing such duty, *see* Gazette of India, 1902, Pt. I, p. 415.

(*b*) what sums in the currency of British India shall be deemed to be the equivalent of "francs and centimes," respectively.

(*3*) The amount of the excess referred to in sub-section (*1*) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the [1]identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (*1*)."

Act not to apply in certain cases.

3. This Act shall not apply to any imported article or substance, the bill of lading for which was signed and given before the twenty-third day of May 1902.

ACT No. I OF 1903[2].

[*6th March 1903.*]

An Act to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1903.

Citation of certain enactments.

2. Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Amendment of certain enactments.

3. The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

4. The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof.

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[1] For rules for the identification of sugar on which special duty has been imposed, *see* Gazette of India, 1902, Pt. I, p. 596.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 72; for Proceedings in Council, *see ibid*, Pt. VI, pp. 6 and 15.

5. The repeal by this Act of any enactment shall not affect any Act of Regulation in which such enactment has been applied, incorporated or referred to; Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

SHORT TITLES.

(*See section 2.*)[1]

1	2	3	4
Year.	No.	Title or subject.	Short title.

Part II.—Acts of the Governor General in Council.

	*	*	*	*	*	*[2]
1876	VII	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.	The Criminal Tribes (Amendment) Act, 1876.			
	*	*	*	*	*	*[3]

[1] Part I, relating to Regulations of the Bengal Code, is omitted.
[2] Only so much of this Schedule as refers to General Acts is reproduced here.
[3] Part III, which refers to Bengal Acts alone, is omitted.

THE SECOND SCHEDULE.

AMENDMENTS.

(*See section 3.*)

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
*	*	*	* * *[1]

Part II.—Acts of the Governor General in Council.

1861	V	The Police Act, 1861	In section 34, *after* imprisonment *insert* with or without hard labour.
1867	III	The Public Gambling Act, 1867.	In the title, *for* the Central Provinces and British Burma *substitute* and the Central Provinces. In the preamble, *for* of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, *substitute* and of the Chief Commissioner of the Central Provinces. In section 1, *for the definitions of* Lieutenant-Governor *and* Chief Commissioner *substitute the following, namely :—* "Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be. "Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 82, *for* certificates of marriages, *and also for* marriage certificates, *substitute* certificates for marriage. In Schedule II, *after* declaration *insert* or oath.
*	*	* *	* * *

[1] Part I of the Second Schedule, which relates to Bengal Regulations only, is omitted, and only so much of Part II as relates to General Acts is reproduced here.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part II.—Acts of the Governor General in Council—contd.	
1879	XIV	The Hackney Carriage Act, 1879.	In section 3, *for* The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, *substitute* The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
„	XVIII	The Legal Practitioners Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9), *before the words and figures* Act I of 1846 *insert* So much of Chapter VI of Bombay Regulation II of 1827 as has not been repealed.
*	*	* *	* * *
1889	XIII	The Cantonments Act, 1889.	In section 6, sub-section (*1*), *for* in the case of a cantonment for which such a committee has not been constituted, *substitute* where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (*5*).
1897	X	The General Clauses Act, 1897.	In section 3, clauses (*5*), (*6*), (*30*) and (*35*), *after* under *insert* the Indian Councils Act, 1861, or. In section 3, *after clause* (*8*), *insert the following :—* (*8a*) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892 :— In section 3, *after clause* (*44*), *insert the following :—* (*44a*) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part II.—Acts of the Governor General in Council—contd.	
1897	X	The General Clauses Act, 1897—*contd.*	In section 3, *after clause* (*55*), *insert the following :—* (*55a*) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892 :— In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification. In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued. In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification; *and before the word* issued *in each of the places in which it occurs, insert* made or.
1898	V	The Code of Criminal Procedure, 1898.	In section 260, sub-section (*1*), clause (*i*), *after* 451 *insert* 453, 454. In section 555 *for* 553 *substitute* 554. In the second schedule, column 5, against section 195, *for* Bailable *substitute* Not bailable. In the second schedule, column 8, against section 506, *for* Ditto *substitute* Presidency Magistrate or Magistrate of the first or second class. In the heading to the fifth schedule, *for* 554 *substitute* 555. In the fifth schedule, Form IV, *for* within days from this date *substitute* on the day of .

THE SECOND SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part II.—Acts of the Governor General in Council—concld.	
1898	V	The Code of Criminal Procedure, 1898—*contd.*	In the fifth schedule, Forms XIII and XIV, *for the passage from* comply *where it occurs for the second time to* released *substitute* be lawfully ordered to be released.
1900	III	The Prisoners Act, 1900,	For section 29 *substitute the following :—* 29. (*1*) The Governor General in Council, may, by general or special order, provide for the removal of any prisoner confined in a prison— (*a*) under sentence of death, or (*b*) under, or in lieu of, a sentence of imprisonment tor transportation, or (*c*) in default of payment of a fine, or (*d*) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in British India. (*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.
	1 *	* *	* * *

Removal of prisoners.

1 Parts III, IV and V relate to Bengal and Burma, respectively, and are therefore omitted.

THE THIRD SCHEDULE.

REPEALS.

(*See section 4.*)

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
	*	* *	* * * [1]

Part II.—Acts of the Governor General in Council.

1870	XXVII	The Indian Penal Code Amendment Act, 1870.	Section 5.
*	*	* *	* * *
1873	XIV	The Lunatic Soldiers' Property Act, 1873.	So much as is unrepealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of sections 6 and 7 and the fourth and fifth Schedules as relates to Act XIX of 1853 (*Recusant witnesses*). So much of section 7 and the fifth Schedule as relates to Act XXI of 1836 (*Creating Zilas*).
*	*	* *	* * *
1877	XI	The Military Lunatics Act, 1887.	In section 3, *the words* and has been ordered to be forwarded to any one of the Presidency-towns.
*	*	* *	* * *
1880	IV	The Portuguese Treaty Act, 1880.	The whole.
*	*	* *	* * *
1881	XVII	The Portuguese Convention Act, 1881.	The whole.
*	*	* *	* * *
1885	IX	The Excise and Sea Customs Law Amendment Act, 1885.	So much of section 4 as is unrepealed.
*	*	* *	* * *

[1] Part I, which relates to Bengal Regulations, is omitted, and only so much of Part II is reproduced here as relates to General Acts.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part II.—Acts of the Governor General in Council—contd.	
1888	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	In the title and preamble, *the words and figures* and the Presidency Small Cause Courts Act, 1882. Section 2 and the second Schedule.
1890	XVII	The Indian Census Act, 1890.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*). So much of section 2, sub-section (*2*), and the second Schedule, Part I, as relates to the following enactments, namely :— Act V of 1869 (Indian Articles of War), Part I, clause (*c*); Act XVII of 1876 (Oudh Land-revenue Act, 1876); and Act XII of 1881. Section 3 and the first Schedule.
*	*	* *	* * *
1894	XIII	The Repealing and Amending (Army) Act, 1894.	In section 1, *the words* Repealing and. Section 2, sub-section (*1*), and the first Schedule.
„	XVI	Tariff (Amending Act VIII of 1894).	The whole.
1895	I	The Presidency Small Cause Courts Act, 1895.	Section 4.
*	*	* *	* * *
1896	VII	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.	The whole.

THE THIRD SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part II.—Acts of the Governor General in Council—concld.	
*	*	* *	* * *
1897	II	The Criminal Tribes Act Amendment Act, 1897.	In section 1, *the word* and *and* sub-section (*2*).
„	V	The Repealing and Amending Act, 1897.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* specifically repealed; And *and the word* also *where it first occurs.* In section 1, *the words* Repealing and. Section 2, sub-section (*1*), section 3 and the first Schedule.
„	X	The General Clauses Act, 1897.	Section 2 and the schedule.
„	XI	The Bhopal Coinage Act, 1897.	The whole.
1898	III	The Lepers Act, 1898 .	Section 19.
*	*	* *	* * *
1900	III	The Prisoners Act, 1900	Section 31.
1901	I	Native Military Lunatics (repeal of enactments).	The whole.
„	XI	The Repealing and Amending Act, 1901.	In the preamble, *the words from* And whereas it is also expedient that certain enactments *to* repealed. In section 1, *the words* Repealing and. Section 3, sub-section (*2*), section 4 and the third Schedule.
*	*	* *	* * *[1]

[1] Parts III, IV, V, VI, and VII which relate to Acts of Local Councils and to Regulations under the Government of India Act, 1870 (33 & 34 Vict., cap. 3), are omitted.

ACT No. II OF 1903.[1]

[*6th March 1903.*]

An Act to amend the Indian Post Office Act, 1898.

VI of 1898.

WHEREAS it is expedient to amend the Indian Post Office Act, 1898[2]; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Post Office (Amendment) Act, 1903.

VI of 1898.

Addition to Act VI of 1898, section 2, clause (*b*).

2. At the end of clause (*b*) of section 2 of the Indian Post Office Act, 1898[2], the following shall be added, namely:—

"Provided that the expression 'inland' shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification."

THE INDIAN ELECTRICITY ACT, 1903.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

PART II.

SUPPLY OF ENERGY TO THE PUBLIC.

3. Supply of energy for traction or to the public for any purpose to be licensed.
4. Grant and revocation of licenses.
5. Provisions where license of licensee, not being a local authority, is revoked.
6. Provisions where license of local authority is revoked.
7. Purchase of undertaking.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 75; for Proceedings in Council, *see ibid*, Pt. VI, pp. 8 and 15.

[2] *Supra.*

SECTIONS.

8. Provisions where no purchase and license revoked, with consent of licensee.
9. Licensee not to purchase, or associate himself with, other licensed undertakings or transfer his undertaking.
10. General power for Local Government to vary terms of purchase.
11. Annual accounts of licensee.
12. Provisions as to the opening and breaking up of streets, railways and tramways.
13. Notice of new works.
14. Alteration of pipes or wires.
15. Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works.
16. Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.
17. Aërial lines.
18. Compensation for damage.
19. Power for licensee to enter premises for ascertaining energy consumed, or to remove fittings, or other apparatus of licensee.
20. Restriction on licensee's controlling or interfering with use of energy.
21. Obligation on licensee to supply energy.
22. Maximum electrical power.
23. Charges for energy to be made without undue preference.
24. Discontinuance of supply to consumer neglecting to pay charge.
25. Exemption of electric supply-lines or other apparatus from attachment in certain cases.
26. Protection of railways and canals, docks, wharves and piers.
27. Protection of telegraphic, telephonic and electric-signalling lines.
28. Notice of and inquiry into accidents.
29. Power for Local Government to interfere in certain cases of default by licensee.
30. Meters.

PART III.

RESTRICTIONS ON USE OF ENERGY NOT SUPPLIED UNDER PART II.

31. Use of energy not supplied under Part II to be subject to rules.

PART IV.

GENERAL.

32. Advisory Boards.
33. Power for Government to make rules.
34. Further provisions respecting rules.
35. Exercise in certain cases of powers of telegraph-authority.
36. Arbitration.
37. Service of notices, orders or documents.
38. Recovery of sums recoverable under certain provisions of Act.

SECTIONS.

39. Penalties.
40. Functions of Local Government under Part II in certain places to be performed by Governor General in Council.
41. Protection for acts done in good faith.
42. Repeals and savings.

THE SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF EVERY LICENSE GRANTED UNDER PART II.

Security and Accounts.

I. Security for execution of works of licensee not being local authority.
II. Audit of accounts of licensee not being local authority.
III. Separate accounts.

Nature and mode of supply.

IV. Systems of supply.
V. Provisions as to electric tramways.

Compulsory works.

VI. Power of Local Government to order licensee to lay down distributing mains.
VII. Provisions as to laying electric supply-lines under special agreement.
VIII. Provisions as to laying down of further distributing mains.
IX. Requisition for supply to owners or occupiers in vicinity.
X. Supply for public lamps.

Charges.

XI. Methods of charging.
XII. Maximum charges.
XIII. Charge for supply for public lamps.

Testing and inspection.

XIV. Licensee to establish testing station and keep instruments for testing.
XV. Licensee to give facilities for testing.
XVI. Representation of licensee at testings.
XVII. Testing of mains.

Plans.

XVIII. Plan of area of supply to be made and kept open for inspection.

Additional notice of certain works.

XIX. Notice to Electric Inspector.

(*Part I.—Preliminary.*)

ACT No. III OF 1903.[1] [*13th March 1903.*]

An Act to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes.

WHEREAS it is expedient to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes; It is hereby enacted as follows :—

PART I

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Electricity Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas ; and

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

Definitions.

2. In this Act, expressions defined in the Indian Telegraph Act, 1885[3], XIII of 1885. have the meanings assigned to them in that Act, and, unless there is any thing repugnant in the subject or context,—

(*a*) " aërial line " means any electric supply-line which is placed above ground and in the open air :

(*b*) the expression " area of supply " means the area within which alone a licensee is for the time being authorized to supply energy :

(*c*) " consumer " means any person supplied, or entitled to be supplied, with energy by a licensee :

(*d*) the expression " consumer's terminals " means the ends of the electric lines situate upon any consumer's premises and belonging to him at which the supply of energy is delivered from the service lines :

(*e*) " daily fine " means a fine for each day on which an offence is continued after conviction therefor :

(*f*) " distributing main " means the portion of any main which is used for transmitting energy to service lines for the purposes of general supply :

(*g*) " electric supply-line " means a wire, conductor or other means used for conveying, transmitting or distributing energy for any

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 56; for Report of the Select Committee, *see ibid*, 1903, Pt. V, p. 77 ; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 27 ; *ibid*, 1903, Pt. VI, pp. 2, 9 and 19.

[2] The Act was brought into force on 1st January 1904, *see* Gazette of India, 1903, Pt. I, p. 1103.

[3] General Acts, Vol. III.

purpose together with any casing, coating, covering tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy :

(*h*) " electrical power " means the rate per unit of time at which energy is supplied :

(*i*) " energy " means electrical energy expended at a rate greater than twenty-five watts :

(*j*) " general supply " means the general supply of energy to ordinary consumers, and includes, in the absence of a special agreement to the contrary with the Government or with a local authority, the general supply of energy for public lamps, but does not include the supply of energy to particular consumers under special agreements :

(*k*) " licensee " means any person licensed under Part II to supply energy :

(*l*) " main " means any electric supply-line which is laid by a licensee in any street and through which energy may be supplied, or is intended to be supplied, by the licensee for the purpose of general supply :

(*m*) " plan " includes a section :

(*n*) " purpose " includes any purpose except the transmission of a message :

(*o*) " service line " means any electric supply line through which energy may be supplied, or is intended to be supplied, by a licensee to a consumer either from a main or directly from the licensee's premises :

(*p*) " street " includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway : and

(*q*) the expression " works " includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a licensee.

PART II.

Supply of Energy to the Public.

Supply of energy for traction or to the public for

3. (*1*) No person shall supply energy for electric traction or to the public for any purpose except under, and in accordance with the terms and conditions of, a license granted by the Local Government under this Part :

any purpose to be licensed.

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890[1]. IX of 1890.

(*2*) Where any difference or dispute arises as to whether energy is or is not supplied or to be supplied for electric traction or to the public for any purpose within the meaning of sub-section (*1*), the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Grant and revocation of licenses.

4. (*1*) The Local Government may grant a license[2] to any person to supply energy for any purpose in any specified local area, and also to lay down electric supply-lines for the conveyance and transmission of energy from a generating station situated outside such specified local area to the boundary of such specified local area in any case in which the energy to be supplied is to be generated outside such specified local area, and in respect of every such license and the grant thereof the following provisions shall have effect, namely :—

(*a*) Before granting a license under this Part the Local Government shall consult every local authority concerned, and, where such local authority advances any objection to the grant of a license, the Local Government shall take such objection into consideration and, if in its opinion it is insufficient, shall record in writing and communicate to such local authority its reasons for such opinion.

(*b*) Any person applying for a license under this Part shall publish a notice of his application in such manner and with such particulars as the Governor General in Council may by rule direct, and no such license shall be granted until three months from the date of the first publication of such notice as aforesaid have expired and until all representations or objections received by the Local Government within that period with reference thereto have been considered by it.

(*c*) No application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held, after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given.

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[1] General Acts, Vol. IV.

[2] For instances of notifications granting licenses —
(1) in respect of the City of Madras, *see* Mad. R. and O.;
(2) to the Darjeeling Municipality, *see* Calcutta Gazette, 1904, Pt. I, p. 1145;
(3) to the Municipality of Delhi, *see* Punjab Gazette, 1905, Pt. IA, p. 31;
(4) to the Cantonment of Cawnpore, *see* U. P. Gazette, 1905, Pt. I, pp. 130 and 133, and Gazette of India, 1905, Pt. I, p. 496.

(*d*) A license under this Part may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such other matters as the Local Government may think fit.

(*e*) The grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of another license to another person within the same area of supply for a like purpose.

(*f*) The provisions contained in the schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to such additions, variations or exceptions (if any) which the Local Government, with the previous sanction of the Governor General in Council, is hereby empowered to make, apply to the undertaking authorized by the license, and shall be binding in like manner and to the same extent as if enacted in this Act.

(*2*) The Local Government may, if in its opinion the public interest so requires, revoke a license, as to the whole or any part of the area of supply, in any of the following cases, namely :—

(*a*) where the licensee, in the opinion of the Local Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act ;

(*b*) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation ;

(*c*) where the licensee, not being a local authority, fails, within a period of six months after the date of his license or such further period as the Local Government may determine and before exercising any of the powers conferred on him thereby in relation to the execution of works, to show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or fails to make the deposit or furnish the security required by his license ;

(*d*) where the licensee is, in the opinion of the Local Government, unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license;

(*e*) where the licensee, not being a local authority, shows, to the satisfaction of the Local Government, at any time after the commencement of his license, that his undertaking cannot be carried on with profit and ought to be abandoned ;

(*f*) where the lisensee supplies energy by means of some system not approved by the Local Government ;

(*g*) in any other case, with the consent of the licensee and, if the licensee is not a local authority, with that of the local authority (if any) concerned, and upon such terms and conditions as it thinks just :

Provided that the Local Government shall not revoke the license as to part only of the area of supply if the licensee represents that he desires to be relieved of his liabilities in respect of the whole.

(*3*) Where the Local Government might, under sub-section (*2*), revoke a license, it may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as it thinks fit, and any further terms or conditions shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

Provisions where license of licensee, not being a local authority, is revoked.

5. Where the Local Government revokes the license of any licensee, not being a local authority, as to the whole or any part of the area of supply, the following provisions shall have effect, namely :—

(*a*) The Local Government shall serve a notice of the revocation upon the licensee and upon any local authority concerned, and shall in the notice fix a date on which the revocation shall take effect, and on and with effect from that date all the powers and liabilities of the licensee under this Act shall absolutely cease and determine.

(*b*) Within one month after the service of such notice as aforesaid any local authority concerned may, if the Local Government has intimated to the local authority that it is at liberty so to do, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell, to the local authority the undertaking or such part thereof as is carried on within the area for which it is constituted, on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purpose of the undertaking or such part thereof as aforesaid, such value to be, in case of difference or dispute, determined by arbitration :

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the

time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance, but without any addition in respect of compulsory purchase or of good will or of any profits which may be or might have been made from the undertaking, or of any similar considerations.

(*c*) Where no purchase has been effected by a local authority under clause (*b*) and any other person is willing to purchase the undertaking or such part of it as aforesaid, the Local Government may, if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, to such other person the undertaking or such part thereof as aforesaid.

(*d*) Where a purchase has been effected under clause (*b*) or clause (*c*), the undertaking, or such part thereof as aforesaid, shall vest in the purchasers free from any debts, mortgages, or similar obligations of the licensee, or attaching to the undertaking; and the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking, or such part thereof as aforesaid, is purchased, and, save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee.

(*e*) Where no purchase has been effected under clause (*b*) or clause (*c*), the Local Government shall have the option of purchasing the undertaking, or such part thereof as aforesaid, and, if the Local Government elects to purchase, the licensee shall sell the undertaking or part thereof to the Local Government upon terms and conditions similar to those set forth in clauses (*b*) and (*d*), save that where the Local Government is the purchaser the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*f*) Where no purchase has been effected under any of the foregoing clauses, the Local Government may forthwith cause the works of the licensee to be removed and the street to be reinstated and

recover the cost of such removal and reinstatement from the licensee.

(*g*) If the licensee has been required to sell the undertaking or any part thereof, and if the sale has not been completed by the date fixed in the notice issued under clause (*a*), the purchaser may, with the previous sanction of the Local Government, work the undertaking or such part thereof pending the completion of the sale.

Provisions where license of local authority is revoked.

6. Where the Local Government revokes the license of a local authority as to the whole or any part of the area of supply, it may forthwith cause the works of the licensee to be removed and the street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of undertaking.

7. (*1*) Where a license has been granted, a local authority shall, on the expiration of such period, not exceeding forty-two years, and of every such subsequent period, not exceeding ten years, as shall be specified in this behalf in the license, have the option of purchasing such portion of the undertaking as is in the area for which it is constituted, and, if the local authority, with the previous sanction of the Local Government, elects to purchase, the licensee shall sell the undertaking or part thereof to it upon terms and conditions similar to those set forth in section 5, clauses (*b*) and (*d*).

(*2*) In any such case as aforesaid, if a local authority does not elect to purchase, the Local Government shall have the like option upon the like terms and conditions save that where the Local Government purchases the undertaking or any part thereof under such option the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*3*) Where, in exercise of the option conferred by sub-section (*1*), a local authority has elected to purchase the portion of the undertaking which is within the area for which it is constituted, the Local Government shall have the like option upon the like terms and conditions in respect to any portion of the undertaking which is without such area.

(*4*) Not less than twelve months' notice in writing of any election to purchase under this section shall be served upon the licensee by the local authority or the Local Government, as the case may be.

(5) Notwithstanding anything hereinbefore contained, the local authority may, with the previous sanction of the Local Government, waive its option of purchase and enter into an argeement with the licensee for the working by him of the undertaking, or such portion thereof as is in the area for which such authority is constituted, until the expiration of the next subsequent

period referred to in sub-section (*1*), upon such terms and conditions as may be stated in such agreement.

Provisions where no purchase and license revoked with consent of licensee.

8. Where, on the expiration of any of the periods referred to in section 7, sub-section (*1*), neither the local authority nor the Local Government purchases the undertaking or any portion thereof, and the license is, with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit :

Provided that, if the licensee does not exercise such option within a period of six months, the Local Government may proceed to take action as provided in section 5, clause (*f*).

Licensee not to purchase, or associate himself with, other licensed undertakings or transfer his undertaking.

9. (*1*) The licensee shall not, at any time, without the previous consent in writing of the Local Government, acquire, by purchase or otherwise, the undertaking of, or associate himself with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply, and also in the area or district in which such other person supplies, or intends to supply, energy.

(*2*) The licensee shall not at any time transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Local Government.

(*3*) Any agreement relating to any transaction of the nature described in sub-section (*1*) or sub-section (*2*) which may be made without such consent as aforesaid shall be void.

General power for Local Government to vary terms of purchase.

10. Notwithstanding anything in sections 5, 7 and 8, the Local Government, with the previous sanction of the Governor General in Council, may, in any license granted under this Act, vary the terms upon which a licensee shall be bound to sell his undertaking.

Annual accounts of licensee.

11. (*1*) Every licensee shall prepare and render to the Local Government, on or before such date in each year as the Local Government may by rule fix, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed by the said rule.

(*2*) The licensee shall keep copies of such annual statement at his office and sell the same to any applicant at a price not exceeding one rupee per copy.

Provisions as to the opening and breaking up of streets, railways and tramways.

12. (*1*) Any licensee may, from time to time but subject always to the terms and conditions of his license,—

(*a*) open and break up the soil and pavement of any street, railway or tramway within the area of supply;

(*b*) open and break up any sewer, drain or tunnel in or under any such street, railway or tramway;

(*c*) lay down and place within the area of supply electric supply-lines and other works;

(*d*) repair, alter or remove the same; and

(*e*) do all other acts necessary for the due supply of energy within the area of supply.

(*2*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use, whereon, whereover or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

Provided that any stay or strut required for the sole purpose of securing in position any support of an aërial electric supply-line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate or, in a Presidency-town, the Commissioner of Police, by order in writing, so directs:

Provided also that if at any time the owner or occupier of any building or land on which any such stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town, the Commissioner of Police may, by order in writing, direct any such stay or strut to be removed or altered.

(*3*) Every order made by a District Magistrate or a Commissioner of Police under sub-section (*2*) shall be subject to revision by the Local Government.

(*4*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower any licensee to open or break up any street not repairable by a local authority, or any railway or tramway, without the consent of the person by whom the same is repairable, unless with the written consent of the Local Government:

Provided that the Local Government shall not give any such consent as aforesaid, until notice has been given, by advertisement or otherwise as the Local Government may direct, to the person by whom the street, railway or tramway concerned is repairable, and until all representations or objections received in accordance with the notice have been considered by the Local Government.

Notice of new works.

13. (*1*) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely :—

(*a*) Not less than one month before commencing the execution of the works (not being a house-service or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person or authority responsible for the repair of the street or part of a street (hereinafter in this section referred to as " the repairing authority ") or upon the person or authority for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as " the owner "), as the case may be, a notice in writing describing the proposed works, together with a detailed plan thereof, on a scale which shall not be smaller than eighty-eight feet to the inch, or such other scale as the Local Government may approve, and intimating the manner in which, and time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired.

(*b*) If the repairing authority intimates to the licensee that it disapproves of such works or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the Local Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final.

(*c*) If the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works and plan, and the licensee, after giving not less than forty-eight hours' notice in

writing to the repairing authority, may proceed to carry out the works in accordance with the notice and plan served under clause (*a*).

(*d*) If the owner disapproves of such works or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice under clause (*a*), serve a requisition upon the licensee demanding that any question in relation to the works, or to compensation, or to his obligations to others in respect thereof shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration.

(*e*) Where no requisition has been served by the owner upon the licensee under clause (*d*), the owner shall be deemed to have approved of the works and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

(*f*) Where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable despatch and, if possible, both by day and by night until completed.

(*2*) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(*3*) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or the owner, as the case may be, of his intention to do so, place an aërial line without complying with the provisions of sub-section (*1*):

Provided that such aërial line shall be used only until the defect in the under-ground electric supply-line can be made good, and in no case for a

period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

Alteration of pipes or wires.

14. (*1*) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(*2*) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely :—

(*a*) Not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric supply-lines or works, as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, together with a plan, on scale which shall not be smaller than eighty-eight feet to the inch, or such other scale as the Local Government may approve, describing the proposed alteration and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire.

(*b*) Within fourteen days after the service of the notice and plan upon the owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice or plan shall be settled by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration.

(*c*) Every arbitrator to whom a reference is made under clause (*b*) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works so as to avoid as far as possible interference therewith.

(*d*) Where no requisition is served upon the operator under clause (*b*), or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the

alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

(*e*) The owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, settled by arbitration.

(*f*) Where a statement is served upon the operator under clause (*e*), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notification in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator.

(*g*) Where the owner declines to comply, or does not, within the time and in the manner prescribed by a notification served upon him under clause (*f*), comply with the notification, the operator may himself execute the alteration.

(*h*) All expenses properly incurred by the owner in complying with a notification served upon him by the operator under clause (*f*) may be recovered by him from the operator.

(*i*) Where the operator makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works.

15. (*1*) Where a licensee requires to dig or sink any trench for laying down any new electric supply-lines (not being service-lines) or other works near to which any sewer, drain, watercourse or work under the control of the Local Government or of any local authority, or any main, pipe, syphon, electric supply-line or other work belonging to any duly authorized person has been lawfully placed, or where any duly authorized person requires to dig or sink any trench for laying down or constructing any new mains or pipes (not being service pipes) or other works, near to which any electric supply-lines

or works of a licensee have been lawfully placed, the licensee or such duly authorized person, as the case may be (hereinafter in this section referred to as "the operator") shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the Local Government or local authority, or to such duly authorized person or to the licensee, as the case may be (hereinafter in this section referred to as "the owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(*2*) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall temporarily support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(*3*) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any mains, pipes, lines or service-pipes or lines belonging to any duly authorized person or to any person supplying or using energy under this Act, he shall not, except with the consent of such person and of the Local Government, lay his electric supply-lines so as to come into contact with any such mains, pipes, lines or service-pipes or lines, or, except with the like consent, employ any such mains, pipes, lines or service-pipes or lines as conductors for the purpose of supplying energy.

(*4*) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(*5*) Where any difference or dispute arises under this section, the matter shall be determined by arbitratio.

(*6*) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.

16. (*1*) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall—

(*a*) immediately cause the part opened or broken up to be fenced and guarded;

(*b*) before sunset cause a light, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(*c*) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and,

(*d*) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel, broken or opened up, keep the same in good repair for three months and for any further period not exceeding nine months, during which subsidence continues.

(*2*) Where any person fails to comply with any of the provisions of sub-section (*1*), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(*3*) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (*2*), the matter shall be determined by arbitration.

Aërial lines.

17. (*1*) Nothing in this Part shall be deemed to authorize or empower a licensee to place any aërial line along or across any street unless and until the Local Government, after consulting the local authority, has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(*2*) Where any aërial line has been placed or maintained by a licensee in breach of the provisions of sub-section (*1*), the Local Government may require the licensee forthwith to remove the same, or may cause the same to be removed and recover from the licensee the expenses incurred in such removal.

(*3*) Where any tree, standing or lying near an aërial line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy, a Magistrate of the first class may, on the application of the licensee, cause the tree to be removed or otherwise dealt with as he thinks fit.

(*4*) When disposing of an application under sub-section (*3*), the Magistrate shall, in the case of any tree in existence before the placing of the aërial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Compensation for damage.

18. (*1*) A licensee shall in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage caused by him or by any one employed by him.

(*2*) Where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Power for licensee to enter premises for ascertaining energy consumed, or to remove fittings or other apparatus of licensee.

19. (*1*) A licensee or any person duly authorized by a licensee may at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of—

(*a*) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee;

(*b*) ascertaining the quantity of energy consumed or supplied; or

(*c*) removing where a supply of energy is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply-lines, fittings, works or apparatus belonging to the licensee.

(*2*) A licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate or, in a Presidency-town, by the Commissioner of Police, and after giving not less than twenty-four hours' notice in writing to the consumer, enter any premises to which energy is or has been supplied, or is to be supplied, by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy belonging to the consumer.

Restrictions on licensee's controlling or interfering with use of energy.

20. (*1*) A licensee shall not be entitled to prescribe any special form of appliance for utilizing energy supplied by him, or, save as provided by section 23, sub-section (*2*), or by section 30, sub-section (*6*), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(*2*) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

Obligation on licensee to supply.

21. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person having a private generating plant shall be entitled to demand a connection with the mains of the licensee in order to use the energy of the licensee, only in the event of accident to the plant of such person.

Maximum electrical power.

22. (*1*) The electrical power at which any consumer shall be entitled to be supplied by a licensee shall not exceed what is necessary for the maximum consumption of energy on his premises:

Provided that, where a consumer has required a licensee to supply him at a specified maximum power, he shall not be entitled to alter that maximum except after one month's notice in writing to the licensee, and the licensee may recover from the consumer any expenses incurred by him by reason of the alteration in respect of the service-lines by which energy is supplied to the consumer's premises, or of any fittings or apparatus of the licensee upon those permises.

(*2*) Where any difference or dispute arises between a consumer and a licensee as to the power at which energy is to be supplied under sub-section (*1*) or as to the amount of the expenses incurred under the proviso thereto, the matter shall be determined by arbitration.

Charges for energy to be made without undue preference.

23. (*1*) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license, and may allow rebates thereon according to the quantity supplied, either in relation to the maximum power to which the consumer is entitled under section 22, or to the total quantity, or to the time at which the supply is needed.

(*2*) Notwithstanding anything in sub-section (*1*), the licensee may, with the consent of the Local Government, charge at one rate for the supply of energy for lighting purposes, and at other rates for the supply of energy for purposes other than lighting; and no person shall be entitled to utilize for one purpose energy supplied to him at a lower rate for any other purpose.

(*3* Where any difference or dispute arises between a consumer and a licensee as to any matter provided for in sub-section (*1*) or sub-section (*2*), the matter shall be determined by arbitration.

Discontinuance of supply to consumer neglecting to pay charge.

24. Where any person neglects to pay any charge for energy or any other sum due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or

disconnect any electric supply-line or other works through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the provisions of this section shall not apply in any case in which any difference or dispute of the nature described in section 30, sub-section (7), has been referred for determination by an Electric Inspector or other person as therein provided until such Inspector or other person has given his decision.

Exemption of electric supply-lines or other apparatus from attachment in certain cases.

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

Protection of railways and canals, docks, wharves and piers.

26. No licensee shall, in exercise of any of the powers conferred by or under this Act, in any way injure any railway, tramway or canal or (in cases where the licensee is not a local authority) any dock, wharf or pier vested in or controlled by a local authority or obstruct or interfere with the traffic on any railway, tramway or canal.

Protection of telegraphic, telephonic and electric-signalling lines.

27. (*1*) Nothing in this Act shall be deemed to authorize or empower any licensee to lay down any underground, or place any aërial, electric supply-line or other works, or to make any alterations in any telegraph-line, maintained or worked by the Government or by any person licensed under the Indian Telegraph Act, 1885,[1] without the previous sanction of the telegraph-authority, to whom the licensee shall give not less than one month's notice in writing of his intention, specifying the course of the works or alterations proposed, the manner in which the works are to be utilized, the amount and nature of the energy to be transmitted, and the extent to, and manner in, which (if at all) earth returns are to be used; and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority for preventing any telegraph-line from being injuriously affected by such works or alterations:

XIII of 1885.

Provided that, in case of emergency (which shall be stated by the license in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be

[1] General Acts, Vol. III.

required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(*2*) Every licensee shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his undertaking, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication, or the currents in such wire or line.

(*3*) Where any difference or dispute arises between the licensee and the telegraph-authority or any person licensed under the Indian Telegraph Act, 1885,[1] as to whether the licensee has constructed, laid down or placed his electric supply-lines or other works, or made alterations in a telegraph line, or worked his undertaking, in contravention of sub-section (*1*) or sub-section (*2*), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Governor General in Council, and the Governor General in Council, unless he is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the licensee after the construction of such lines or works, may direct the licensee to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the licensee shall make such alterations or additions accordingly : XIII of 1885.

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line, so long as the course of the electric supply-line and the amount and nature of the current transmitted thereby are not altered.

(*4*) Where a licensee makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any differenee or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by such work or by any use made thereof.

Notice and inquiry into, accidents.

28. (*1*) Every licensee shall, within twenty-four hours of the occurrence, send to the Local Government and to the District Magistrate or, in a Presidency-town, to the Commissioner of Police, notice in writing of any

[1] General Acts, Vol. III.

accident by explosion, fire, electric shock or fall of an aërial line and also of any other accident resulting or likely to have resulted in loss of life or personal injury in any part of the licensee's works or circuits, or in connection with the same, and also notice of any loss of life or personal injury actually occasioned by any such accident.

(*2*) The Local Government may also, if it thinks fit, appoint any Electric Inspector or other competent person to inquire and report as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with a licensee's works, or as to the manner in, and extent to, which the provisions of the license and of this Act, so far as those provisions affect the safety of the public, have been complied with by the licensee.

Power for Local Government to interfere in certain cases of default by licensee.

29. If at any time it is established, to the satisfaction of the Local Government,—

(*a*) that a licensee is supplying energy otherwise than by means of a system which has been approved of by the Local Government or (except in accordance with the provisions of his license) has permitted any part of his circuits to be connected with earth, or

(*b*) that any electric supply-lines or works of a licensee are defective; or

(*c*) that any works of a licensee or his supply of energy are or is attended with danger to the public safety;

the Local Government may, by order in writing, specify the matter complained of and require the licensee to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

Meters.

30. (*1*) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity cont[illegible] in the supply (such amount or quantity being hereinafter referred to as "the value of the supply") shall be ascertained by means of a duly certified meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof unless the consumer elects to purchase a meter.

(*2*) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the consumer

shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(*3*) Where the meter is the property of the consumer, he shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the licensee may, for so long as the default continues, cease to supply energy through the meter.

(*4*) The licensee or any person duly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to and be at liberty to take off, remove, test, inspect and replace any meter whereby the value of the supply is ascertained or to be ascertained; and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such taking off, removing, testing, inspecting and replacing and the procuring the meter to be again duly certified, where that is thereby rendered necessary, shall, if the meter is found to be otherwise than in proper order, be recovered from the consumer; and where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be determined by arbitration:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (*7*) has arisen until the matter has been determined as therein provided.

(*5*) A consumer shall not connect any meter, whereby the value of the supply is ascertained or to be ascertained, with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(*6*) In addition to any meter which may be placed upon the premises of a consumer to ascertain the value of the supply, the licensee may place upon such premises such meter or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given or the maximum power taken by the consumer, or any other quantity or time connected with the supply:

Provided that the meter or apparatus shall be of a construction and pattern approved of by the Local Government, and shall be fixed and connected with the service-lines in a manner so approved, and shall be supplied and maintained entirely at the cost of the licensee, and shall not, in the absence of an agreement to the contrary, be placed otherwise than between the mains of the licensee and the consumer's terminals.

(7) Where any difference or dispute arises as to whether any meter, whereby the value of the supply as to pressure or quantity is ascertained or to be ascertained, is or is not in proper order for correctly registering the value of the supply, or as to whether such value has in any case been correctly registered by the meter, the matter shall be determined, upon the application of either party, by an Electric Inspector or by a competent person specially appointed by the Local Government in this behalf; and, where the meter has, in the opinion of such Inspector or person, ceased to work for a period not exceeding one month, such Inspector or person shall estimate the value of the supply for such period on the basis of the value of the previous supply; and the decision of such Inspector or person shall be final, and the costs of or incidental to such determination shall be recoverable as such Inspector or person may direct: but, save as aforesaid, the register of the meter, whereby the value of the supply is ascertained, shall, in the absence of fraud, b conclusive proof of such value.

Explanation.—A meter shall be deemed to be "duly certified" if it is certified by an Electric Inspector or by a competent person appointed by the Local Government in this behalf to be a correct meter, and to be of a construction and pattern approved by the Local Government, and to have been fixed and connected with the electric supply-lines in a manner so approved:

Provided that, where any alteration is made in a duly certified meter, or where any such meter is unfixed or disconnected from the electric supply-lines, it shall cease to be a duly certified meter unless and until it is again duly certified aforesaid.

PART III.

RESTRICTIONS ON USE OF ENERGY NOT SUPPLIED UNDER PART II.

Use of energy not supplied under Part II to be subject to rules.

31. (*1*) No person shall, for any purpose in any street, or in any place in which one hundred or more persons are likely ordinarily to be assembled or which is a factory within the meaning of the Indian Factories Act,[1] 1881, use energy which is not supplied to him under Part II, without giving not less than seven clear days' notice in writing of his intention to the District Magistrate or, in a Presidency-town, to the Commissioner of Police, and complying with such rules as may be made in this behalf under section 33:

XV of 1881.

[1] General Acts, Vol. III.

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890[1]: IX of 1890.

Provided also that the Local Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt any person or class of persons using energy on premises upon or in connection with which it is generated, from the application of this section or of any such rule as aforesaid.

(*2*) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

PART IV.

GENERAL.

Advisory Boards.

32. (*1*) The Governor General in Council may, for the whole or any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, by notification in the Gazette of India or the local official Gazette, as the case may be, constitute an Advisory Board.

(*2*) Every such Board shall consist of—

(*a*) a Chairman and two other members or, where the Board is to consist of only three members, one other member nominated by the Governor General in Council or the Local Government, as the case may be, and

(*b*) two members or, where the Board is to consist of only three members, one member nominated by such local authorities, Chambers of Commerce or other Associations as the Governor General in Council or the Local Government, as the case may be, may by rule prescribe.

(*3*) The Governor General in Council or the Local Government, as the case may be, may give directions as to the payment of travelling expenses incurred by any member of an Advisory Board in the performance of his duty as such member.

Power for Government to make rules.

33. (*1*) The Governor General in Council may, for the whole [2] or any part of British India, and each Local Government, with the previous sanction of the

[1] General Acts, Vol. IV.

[2] For rules made under this section for the whole of British India by the Governor General in Council, *see* Gazette of India, 1903, Pt. I, p. 1103 ; for the rules as subsequently amended from time to time, *see* Gen. R. and O.

Governor General in Council, may, for the whole or any part of the Province, make rules to regulate the generation, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of applications for licenses and the payments to be made in respect thereof ;

(*b*) regulate the publication of notices ;

(*c*) prescribe the manner in which, and the time within which, representations or objections with reference to any application under Part II are to be made ;

(*d*) provide for the preparation and submission of accounts by licensees in a specified form ;

(*e*) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers ;

(*f*) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, supply or use of energy ;

(*g*) for the purposes of any electric tramway, regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the tramway or with the currents therein, whether the earth is used as a return or not ; and for the like purposes apply or adapt any of the provisions of Part II ;

(*h*) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by any appliance or apparatus used in the generation, supply or use of energy ;

(*i*) provide for the appointment of Electric Inspectors by the Local Government, and, with the sanction of the Local Government, by local authorities, and prescribe the qualifications to be required of such Inspectors, and their remuneration and duties ;

(*i*) provide for the appointment of members of Advisory Boards and define the duties and regulate the procedure of such Boards;

(*k*) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests; and

(*l*) authorize and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act.

(*3*) In making any rule under this Act, the Governor General in Council or the Local Government, as the case may be, may direct that every breach thereof shall be punishable with fine which may extend to one hundred rupees and, in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

Further provisions respecting rules.

34. (*1*) The power to make rules under section 33 shall be subject to the condition of the rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897,[1] as that after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information. X of 1897.

(*3*) Where an Advisory Board has been constituted under section 32 by the Governor General in Council or by the Local Government, any rule to be made under this Act shall, before it is published for criticism under sub-section (*2*), be referred, in the case of a rule to be made by the Governor General in Council, to the Advisory Board constituted by the Governor General in Council, and in the case of a rule to be made by the Local Government, to an Advisory Board constituted by such Government, and the rule shall not be so published until such Board has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*4*) All rules made under section 33 shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Exercise in certain cases of powers

35. Notwithstanding anything in sections 12 to 18, the Governor General in Council may, for the placing of appliances and apparatus for the transmis-

[1] General Acts, Vol. IV.

sion of energy for any purpose, confer upon any public officer or licensee any of telegraph-authority. of the powers which the telegraph-authority possesses under, and subject to the provisions of, the Indian Telegraph Act, 1885,[1] with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

XIII of 1885.

36. Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the Governor General in Council or the Local Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Indian Arbitration Act, 1899.[2] Arbitration.

IX of 1899.

37. (*1*) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served, by post or left— Service of notices, orders or documents.

(*a*) where the Government is the addressee, at the office of the Secretary in the Public Works Department :

(*b*) where a local authority is the addressee, at the office of the local authority :

(*c*) where a company is the addressee, at the registered office of the company :

(*d*) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(*2*) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

38. Every sum declared to be recoverable by section 5, clause (*f*), section 6, section 14, sub-section (*2*), clause (*h*), section 16, sub-section (*2*), section 17, sub-section (*2*) or sub-section (*4*), section 22, sub-section (*1*), or section 30, sub-section (*4*) or sub-section (*7*), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person. Recovery of sums recoverable under certain provisions of Act.

39. (*1*) Whoever dishonestly abstracts, consumes or uses any energy Penalties.

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[1] General Acts, Vol. III.

[2] *Supra.*

shall be deemed to have committed theft within the meaning of the [1] Indian Penal Code. XLV of 1860.

(2) Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(3) Whoever—

(*a*) being a licensee, without the previous sanction of the Local Government, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(*b*) fails to prevent any variation of pressure exceeding the limits of variation prescribed by the rules made under this Act; or

(*c*) makes default in complying with any order issued to him by the Local Government under section 29,

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

(4) Whoever uses energy in contravention of the provisions of section 31 shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(5) Whoever—

(*a*) connects any meter, whereby the value of the supply is ascertained or to be ascertained, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or

(*b*) lays, or causes to be laid, or connects up, any works for the purpose of communicating with any other works belonging to a licensee without such licensee's consent; or

(*c*) maliciously injures any meter, whereby the value of the supply to a consumer by a licensee is ascertained; or

(*d*) improperly uses the energy of a licensee;

shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(6) Whoever maliciously extinguishes any electric light supplied for the

[1] General Acts, Vol. I.

public use, shall be punishable with fine which may extend to two hundred rupees.

(*7*) Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to fifty rupees.

(*8*) Whoever, in any case not already provided for by this section, makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 15 and 27, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable in the circumstances.

(*9*) The penalties imposed by this section shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his license, which the offender may have incurred.

(*10*) The provisions of sub-sections (*1*), (*2*), (*5*), (*6*) and (*7*) shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by or of works belonging to the Government.

Functions of Local Government under Part II in certain places to be performed by Governor General in Council.

40. The power and duties of the Local Government under Part II shall, when the energy is to be supplied within the limits of any cantonment[1] or of any fortress, arsenal, factory, dockyard or camp or of any building or place in the occupation of Government for naval or military purposes, be exercised and performed by the Governor General in Council.

Protection for acts done in good faith.

41. No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

Repeals and savings.

XIII of 1887.

42. (*1*) The Electricity Act, 1887, the Calcutta Electric Lighting Act,

[1] For notification in respect of the Cantonment of Cawnpore, *see* Gazette of India, 1905, Pt. I, p. 496.

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

1895, and the Howrah Bridge Electric Lighting Act, 1902, are hereby repealed :

Provided that nothing in the foregoing provisions of this section shall be deemed to affect the terms of any license granted before the commencement of this Act under the Calcutta Electric Lighting Act, 1895, or any provisions of that Act or any rule made thereunder having reference to any such license. Ben. Act IX of 1895. Ben. Act I of 1902.

(*2*) Nothing in this Act shall be deemed to affect the terms of any other license which has been granted or of any agreement which has been made by or with the sanction of the Government for the supply or use of electricity before the commencement of this Act.

THE SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER PART II.

[*See section 4, sub-section (1), clause (f).*]

Security and accounts.

Security for execution of works of licensee not being local authority.

I. Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely :—

(*a*) The licensee shall, within a period of six months after the commencement of the license and before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.

(*b*) The licensee shall also, within six months after the commencement of the license or within such extended period as may be approved by the Local Government and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure, to the satisfaction of the Local Government, such sum (if any) as may be fixed by the license or, if not so fixed, by the Local Government.

(*c*) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him in equal moieties, when and so soon as it may be certified by an officer

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

appointed by the Local Government in this behalf that amounts equal to the sums so to be repaid or released have been expended by the licensee upon works executed for the purposes of the undertaking, or that distributing mains have been duly laid down by the licensee in every street or part of a street in which he is required to lay them down within a limited time, or shall be repaid or released at such earlier dates, and by such instalments as may be approved by the Local Government.

(*d*) Where the area of supply includes two or more local areas for which local authorities are constituted, the Local Government may require the deposit to be made or the security to be given in respect of such local areas severally, and in that case the deposit or security shall be repaid or released separately as to each local area.

Audit of accounts of licensee not being local authority.

II. Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely :—

(*a*) The annual statement of accounts of the undertaking shall, before being rendered to the Local Government under section 11 of the Indian Electricity Act, 1903, be examined and audited by such person as the Local Government may appoint in this behalf, and the remuneration of the auditor shall be such as the Local Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties to such an amount as the Local Government shall approve, shall be paid by the licensee on demand.

(*b*) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(*c*) The audit shall be made and conducted in such manner as the Local Government may direct.

(*d*) Any report made by the auditor, or such portion thereof as the Local Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

Separate accounts.

III. The licensee shall, unless the Local Government otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Nature and mode of supply.

Systems of supply.

IV. Energy shall be supplied by the licensee only by means of some system approved in writing by the Local Government and, save as otherwise provided by rules under the Indian Electricity Act, 1903, the licensee shall not permit any part of any circuit to be connected with earth unless the connection is for the time being approved by the Local Government, with the concurrence of the telegraph-authority.

Provisions as to electric tramways.

V. Where and in so far as energy is supplied to a tramway for purposes of electric traction, the following provisions shall apply, namely:—

(*a*) The licensee shall employ either insulated metallic returns, or uninsulated metallic returns of low resistance, save in the case of vehicles in which the motive power is entirely self-contained.

(*b*) The licensee shall take all reasonable precautions in constructing, placing and maintaining his electric supply-lines and circuits, and other works of all descriptions, and also in working his undertaking, so as not injuriously to affect, by fusion or electrolytic action, any gas or water pipes, or other metallic pipes, structures or substances.

Compulsory works.

Power of Local Government to order licensee to lay down distributing mains.

VI. The licensee shall, within a period of two years after the commencement of his license, lay down suitable and sufficient distributing mains for the purposes of general supply throughout such streets or parts of streets as the Local Government may, by order in writing issued within six months of the commencement of the license, direct.

Provisions as to laying electric supply lines under special agreement.

VII. Every licensee shall, not less than one month before commencing to lay in any street any electric supply-line for the supply of energy to any particular consumer, and not for the purposes of general supply, serve upon he local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and ermination of the electric supply-line so to be laid, a notice stating that the icensee intends to lay the electric supply-line, and intimating that, if within he said period any two or more of such owners or occupiers require in accordnce with the provisions of the license that a supply shall be given to their

premises, the necessary distributing main will be laid by the licensee at the same time as the electric supply-line intended for the particular consumer.

Provisions as to laying down of further distributing mains.

VIII. (*1*) Where, after the expiration of eighteen months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the Local Government or a local authority charged with the public lighting thereof, requiring the licensee to provide and lay down distributing mains for the purposes of general supply throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

(*a*) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract, duly executed and with sufficient security, binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than three years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee; or,

(*b*) where it is made by the Local Government or a local authority, the Local Government or local authority, as the case may be, does not, within the like period, tender a like agreement binding itself to take a supply of energy for not less than three years for the public lighting of such street or part thereof.

(*2*) Where any difference or dispute arises between the licensee and such owners, occupiers or local authority as to the sufficiency of the security offered under this clause, o as to te amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Requisition for supply to owners or occupiers in vicinity.

IX. (*1*) Where a requisition is made by the owners or occupiers of any premises situate within one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, requiring the licensee to supply energy for such premises, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition, unless the person making it fails, within fourteen days after the service on him by the licensee of a notice in writing in this behalf, to tender to the licensee a written contract, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee:

Provided, first, that the cost of so much of any electric supply-line as may be laid for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any electric supply-line as it may be necessary for the said purposes to lay for a greater distance than one hundred feet from the licensee's distributing main, although not on that property, shall, if the licensee so requires, be paid by the owner or occupier making the requisition:

Provided, secondly, that the licensee may, after he has furnished a supply of energy for any premises, by notice in writing require the owner or occupier, within seven days after the date of the service of the notice, to give him security for the payment of all money which may become due to him in respect of the supply, in case the owner or occupier has not already given that security, or in case any security given has become invalid or is insufficient and, if the owner or occupier fails to comply with the terms of the notice, the licensee may discontinue to supply energy for such premises so long as such failure continues:

Provided, thirdly, that if the owner or occupier of any such premises as aforesaid adopts any form of lamp or burner, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as to interfere unduly or improperly with the efficient supply of energy to any other person by the licensee, or fails to keep his meter in proper order, the licensee may discontinue the supply of energy for such premises so long as such lamp or burner is so adopted, or the energy is so used or dealt with, or the meter is not kept in proper order, as the case may be:

Provided, fourthly, that the licensee shall not be bound to furnish a supply of energy to any premises if an Electric Inspector or other competent

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

person appointed by the Local Government is satisfied that the electric line, fittings, works and apparatus therein are not in good order and condition and are likely to affect injuriously the use of energy by the licensee or by other persons:

Provided, fifthly, that in the event of any alterations of, or additions to, any electric wires, fittings, works or apparatus within such premises as aforesaid, all such alterations or additions shall be notified to the licensee by the owner or occupier before being connected to the source of supply, with a view to their being examined and tested: and

Provided, sixthly, that, in the event of any requisition being made for a supply of energy from any distributing main of which the licensee can prove to the satisfaction of an officer appointed by the Local Government in this behalf,—

(*a*) that it is already loaded up to its full current-carrying capacity, or

(*b*) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, as such officer may think sufficient for the purpose of amending the distributing main or laying down a further distributing main.

(*2*) Where any difference or dispute arises as to the sufficiency of the security offered by such owner or occupier, or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to any alleged excess or defect in the pressure or quantity of the energy supplied, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

Supply for public lamps.

X. (*1*) Where a requisition is made by the Local Government or by a local authority requiring the licensee to supply for a period of not less than one year energy for any public lamps within the distance of one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, the licensee shall

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the Local Government or the local authority, as the case may be, may require.

(2) The provisions contained in the first, fourth, fifth and sixth provisos to sub-clause (1) and in sub-clause (2) of clause IX shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Local Government or local authority were an owner or occupier within the meaning of those provisions.

Charges.

Methods of charging.

XI. In the absence of an agreement to the contrary, the licensee may charge for energy supplied by him to any consumer—

(*a*) by the actual amount of energy so supplied ; or

(*b*) by the electrical quantity contained in the supply ; or

(*c*) by such other method as may be approved by the Local Government :

Provided, first, that, where the licensee charges by any method so approved by the Local Government, any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method :

Provided, secondly, that, before commencing to supply energy through any distributing main for the purposes of general supply, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied ; and, where the licensee has given such notice he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Local Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main :

Provided, thirdly, that, if the consumer is provided with a duly certified meter for the purposes of ascertaining the value of the supply and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new duly certified meter if such is necessary for the purpose of ascertaining the value of the supply according to the new method of charging.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Maximum charges.

XII. The price charged by the licensee for energy supplied by him shall not exceed the maximum fixed by his license, or, in the case of a method of charge approved by the Local Government, such maximum as the Local Government shall fix on approving the method :

Provided that, if, at any time after the expiration of seven years from the commencement of the license, the Local Government considers or is satisfied that the maximum so fixed or approved as aforesaid should be altered, it may, after such inquiry (if any) as it thinks fit, make an order accordingly, which shall have effect from such date as may be mentioned therein :

Provided, also, that where an order in pursuance of the foregoing proviso has been made, no further order altering the maximum fixed thereby shall be made until the expiration of another period of seven years.

Charge for supply for public lamps.

XIII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the Local Government or the local authority, as the case may be, and, where any difference or dispute arises, the matter shall be determined by arbitration.

Testing and inspection.

Licensee to establish testing stations and keep instruments for testing.

XIV. The licensee shall, at any place within reasonable distance from any main, establish at his own cost and keep in proper condition such number of testing stations as the Local Government may direct for the purpose of testing the supply of energy in the main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as the Local Government may approve, and shall connect all such testing stations, by means of proper and sufficient electric supply-lines, with the distributing mains, and shall supply energy to each testing station for the purpose of testing.

Licensee to give facilities for testing.

XV. The licensee shall afford all facilities for inspection and testing of his generating, converting and testing stations and all other parts of his electric system and for the reading, testing and inspection of instruments.

Representation of licensee at testings.

XVI. The licensee may, on each occasion of the testing of any distributing main or electric supply-line or the testing or inspection of any instruments, be represented by an agent who may be present but shall not interfere with the testing or inspection.

Testing of mains.

XVII. On the occasion of the testing of any main of the licensee by an Electric Inspector, reasonable notice thereof shall be given to the licensee and the testing shall be carried out at such suitable hours as, in the opinion of the

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Local Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the mains of the licensee at any points other than those at which the licensee has reserved for himself access to the same:

Provided that the licensee shall not be held responsible for any interruption in the supply of energy which may be occasioned by or required by the Electric Inspector for the purpose of any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of a main oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Local Government.

Plans.

Plan of area of supply to be made and kept open for inspection.

XVIII. (*1*) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the line and the height above or the depth below the surface of all his then existing mains, electric supply-lines, street distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the mains, electric supply-lines, street distributing boxes and other works for the time being in existence. The licensee shall also, if so required by the Local Government, cause to be made sections showing the level of all his existing distributing mains and underground works other than service-lines.

(*2*) Every such plan shall be drawn to a scale which shall not be smaller than eighty-eight feet to the inch or to such other scale as may be approved by the Local Government.

(*3*) Every such section shall be drawn to a horizontal scale which shall not be smaller than eighty-eight feet to the inch and to a vertical scale which shall not be smaller than eleven feet to an inch, or to such other horizontal and vertical scales as may be approved by the Local Government.

(*4*) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Indian Electricity Act, 1903.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

(5) The licensee shall, if required by the Local Government, or, where the licensee is not a local authority, by the local authority (if any) concerned, supply to the Local Government or local authority, as the case may be, a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works.

Notice to Electric Inspector.

XIX. On the day next preceding the commencement of any such works as are referred to in section 13 of the Indian Electricity Act, 1903, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Electric Inspector or such officer as the Local Government may appoint in this behalf for the area of supply a notice in writing stating that he is about to commence the works and the nature and position of the same.

ACT No. IV OF 1903[1].

[*13th March 1903.*]

An Act further to amend the Provident Funds Act, 1897.

IX of 1897.

WHEREAS it is expedient further to amend the Provident Funds Act, 1897[2]; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1903.

IX of 1897.

Substitution of new section for section 4, Act IX, 1897.

2. For section 4 of the Provident Funds Act, 1897[2], the following section shall be substituted, namely :—

Protection to deposits and other sums in certain cases.

"4. (*1*) Compulsory deposits in any Government or Railway Provident Fund shall not be liable to any attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure[3] shall be entitled to, or have any claim on, any such compulsory deposit.

XIV of 1882.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 75; for Report of the Select Committee, *see ibid*, 1903, p. 99; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 175, *ibid*, 1903, Pt. VI, pp. 11 and 21.

[2] General Acts, Vol. IV.

[3] This reference should be read as applying to the Provincial Insolvency Act, 1907 (III of 1907); see s. 56 (*2*) of that Act, General Acts, Vol. VI.

(*2*) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund or under this Act to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorized by law to receive payment on her or their behalf shall vest in the widow or the children, or partly in the widow and partly in the children, as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death of such subscriber or depositor.

(*3*) Nothing in sub-section (*2*) shall apply in the case of any such subscriber or depositor as aforesaid dying before the thirteenth day of March, 1903."

THE INDIAN WORKS OF DEFENCE ACT, 1903.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

PART II.

IMPOSITION OF RESTRICTIONS.

3. Declaration and notice that the restrictions will be imposed.
4. Power to do preliminary acts after publication of notice under section 3, sub-section (*2*).
5. Payment for damage.
6. Further powers exerciseable after publication of notice under section 3, sub-section (*2*).
7. Restrictions.
8. Land to be marked out, measured, registered and planned.
9. Notice to persons interested.
10. Power to require and enforce the making of statements as to names and interests.
11. Application of certain sections of the Indian Penal Code.
12. Inquiry and award by Collector.
13. Award of Collector when to be final.
14. Adjournment of inquiry.
15. Power to summon and enforce attendance of witnesses and production of documents.
16. Matters to be considered and neglected.
17. Supplementary proceedings.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

SECTIONS.

18. Reference to Court.
19. Collector's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters not to be considered in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Costs.
28. Collector may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified.
30 Dispute as to apportionment.

PART V.

PAYMENT.

31. Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.

MISCELLANEOUS.

35. Service of notices.
36. Penalties.
37. Magistrate to enforce the terms of the Act.
38. Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.
39. Demolition of part of house or building and imposition of restrictions on part of land.
40. Exemption from stamp-duty and fees.
41. Notice in case of suits for anything done in pursuance of Act.
42. Code of Civil Procedure to apply to proceedings before Court.
43. Appeals in proceeedings before Court.
44. Power to make rules.

ACT No. VII OF 1903.[1]

[*20th March 1903.*]

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Works of Defence Act, 1903; and

(*2*) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

[2](*c*) the expression "Division" means one of the Divisions into which the Army in India is, for the time being, divided, and includes the Bannu, Derajat and Kohat Independent Brigades :

[2](*d*) the expression "General Officer Commanding the Division" means the General Officer Commanding a Division, and includes the General Officers Commanding the Bannu, Derajat and Kohat Brigades :

(*e*) the expression "Commanding Officer" means the officer for the time being in command of a work of defence :

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 84; for Report of the Select Committee, see *ibid*, 1903, p. 105; for Proceedings in Council, see *ibid*, 1902, Pt. VI, p. 175; *ibid*, 1903, pp. 14 and 50.

[2] Substituted for the original clauses (*c*) and (*d*) by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

(*f*) the expression "Collector" includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

(*g*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*h*) "maintain," with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (*1*) and (*3*), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (*2*):

(*i*) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age: and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or

Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure [1] shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and XIV of 1882.

(*iv*) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

Imposition of Restrictions.

Declaration and notice that the restrictions will be imposed.

3. (*1*) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration [2] shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(*2*) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(*3*) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

Power to do preliminary acts after publication of notice under section 3, sub-section (*2*).

4. It shall be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, sub-section (*2*), to enter upon and survey and take levels of any land in such

[1] See now the Code of Civil Procedure, 1908 (Act V of 1908), Schedule I, Order XXXII, General Acts, Vol. VI.

[2] For notifications by (1) the United Provinces Government *see* United Provinces Gazette, 1907, Pt. I, pp. 269, 271, 680-682; *ibid*, 1908, Pt. I, p. 440; (2) the Punjab Government, *see* Punjab Gazette, 1906, Pt. I, p. 445; *ibid*, 1907, Pt. I, pp. 154, 790.

locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amountso paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Further powers exerciseable after publication of notice under section 3, sub-section (2).

6. (*1*) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (*2*) to (*4*), be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of the boundaries of the lands held by different owners may be preserved.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised,—

(*a*) save as otherwise provided by sub-section (*3*), before the making of the award hereinafter referred to in section 12, nor

(*b*) save as otherwise provided by sub-section (*4*), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

(*3*) In case of emergency, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that all or any powers conferred by sub-section (*1*) may be exercised at any time within six months after the publication of the notice referred to in section 3, sub-section (*2*), and such powers may be exercised accordingly, and the said notification shall be conclusive proof of emergency.

(*4*) Nothing in sub-section (*2*) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

Restrictions.

7. From and after the publication of the notice mentioned in section 3, sub-section (*2*), such of the following restrictions as the Local Government may in its discretion declare therein shall attach with reference to such land, namely :—

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (*4*), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

(*i*) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the[1] [General Officer Commanding the Division], and on such conditions as he may prescribe ;

(*ii*) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated :

Provided that, with the written approval of the General Officer Commanding the [2][Division, District or Brigade] and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition :

Provided also that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer ;

(*iii*) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of military

[1] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.
[2] Substituted for the word "District" by *ibid.*

authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer; and

(*iv*) where any building, wall, bank or other construction above the ground has been permitted under clause (*i*) of this sub-section to be maintained, erected, added to or altered, repairs shall not without the written approval of the [1] [General Officer Commanding the Division] be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely :—

(*i*) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the [1] [General Officer Commanding the Division] and on such conditions as he may prescribe huts, fences and other constructions of wood or other materials easily destroyed or removed, may be maintained, erected, added to or altered :

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation, upon an order in writing signed by the General Officer Commanding the [2] [Division, District or Brigade] ; and

(*ii*) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the [1] [General Officer Commanding the Division] and on such conditions as he may prescribe.

(*c*) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (*a*) and (*b*) shall apply with the following additional limitation, namely :—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brush-wood fences may be exempted from this prohibition.

[1] Substituted for the words "General Officer of the Command" by the Amending (Army) Act, 1909 (V of 1909), General Acts, Vol. VI, Appendix.

[2] Substituted for the word "District" by *ibid.*

Land to be marked out, measured, registered and planned.

8. As soon as may be, after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Notice to persons interested.

9. (*1*) At any time before the expiration of—

(*a*) the period of eighteen months from the publication of the declaration referred to in section 3, or

(*b*) such other period not exceeding three years from the said publication as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct in this behalf,

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him:

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (*3*), the notice prescribed by this section shall be given as soon as may be thereafter.

(*2*) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (*3*), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business,

Power to require and enforce the making of statements as to names and interests.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Application of certain sections of the Indian Penal Code.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.[1]

XLV of 1860.

Inquiry and award by Collector.

12. On the day fixed under section 9 or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*a*) the true area of the land and the nature of the obstructions from which the land is to be kept free;

(*b*) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7; and

(*c*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

Award of Collector when to be final.

13. (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

(*2*) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

[1] General Acts, Vol. I.

Adjournment of inquiry.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.[1]

Matters to be considered and neglected.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24. XIV of 1882.

Supplementary proceedings.

17. Whenever the officer exercising the powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (*1*) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice.

PART III.

Reference to Court and Procedure thereon.

Reference to Court.

18. (*1*) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested:

Provided that every such application shall be made,—

(*a*) if the persons making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (*2*), or within six months from the date of the Collector's award, whichever period shall first expire.

(*2*) The application shall state the grounds on which objection to the award is taken.

[1] See now the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

(*Part III.—Reference to Court and Procedure thereon.*)

Collector's statement to the Court.

19. (*1*) In making the reference the Collector shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount of compensation awarded under section 12; and,

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(*2*) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

Matters to be considered in determining compensation.

23. (*1*) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

(*a*) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6;

(*b*) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6;

(*c*) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land;

(*d*) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings; and,

(*e*) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(*2*) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

Matters not to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

(*a*) the degree of urgency which has led to the damage or the imposition of restrictions;

(*b*) any disinclination of the person interested to submit to damage or restrictions;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(*d*) any increase to the value of the other land of the person interested accruing or likely to accrue from anything done under this Act; or

(*e*) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Rules as to amount of compensation.

25. (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge and shall specify the amount awarded under section 23, sub-section (*1*), clause (*a*), and also the amounts (if any) respectively awarded under each of the

other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

PART IV.

Apportionment of Compensation.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

Payment.

Payment of compensation or deposit of same in Court.

31. (*1*) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (*2*).

(*2*) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money-compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in sub-section (*3*) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to person incompetent to alienate.

32. (*1*) If any money is deposited in Court under section 31, sub-section (*2*), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(*a*) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies, the Court shall order the cost of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

Payment of interest.

34. When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the date of the award until it is so paid or deposited.

PART VI.

MISCELLANEOUS.

Service of notices.

35. (*1*) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (*2*), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult

male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house and also in some conspicuous part of the land upon which restrictions are to be imposed :

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

Penalties.

36. Whoever wilfully—

(*a*) obstructs any person in doing any of the acts authorized by section 4, section 6 or section 8, or

(*b*) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or

(*c*) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorized under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, Bombay and Rangoon) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (*1*) The Local Government shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorized by section 6 have been taken.

(*2*) Whenever the Local Government withdraws the imposition of any declared restrictions, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in

the prosecution of the proceedings under this Act relating to the said restrictions.

(*3*) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (*1*) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired:

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be demolished, or that the right to demo ish the whole of it shall be acquired:

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished, is reasonably required for the full and unimpaired use of the house, manufactory or building.

(*2*) If, in the case of any claim of the kind referred to in section 23, sub-section (*1*), clause (*c*), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

(*3*) In the case provided for by sub-section (*2*) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 12.

(*4*) Notwithstanding anything contained in section 7, clause (*a*), any land, upon the use and enjoyment of which restrictions are imposed under

his section may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

Exemption from stamp-duty and fees.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure[1] shall apply to all proceedings before the Court under this Act.

Appeals in proceedings before Court.

43. Subject to the provisions of the Code of Civil Procedure[1] applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act.

Power to make rules.

44. (*1*) The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

(*2*) The power to make rules under sub-section (*1*) shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made under sub-section (*1*) shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

ACT No. VIII of 1903.

[*20th March 1903.*]

An Act to extend to all High Courts the power to grant Probates of Wills and Letters of Administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases.

WHEREAS it is expedient to extend to all High Courts the power to

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[1] This reference should now be construed as referring to the Code of Civil Procedure, 1908 (Act V of 1908), General Acts, Vol. VI.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 2; for Report of the Select Committee, *see ibid*, p. 119; for Proceedings in Council, *see ibid*, Pt. VI, pp. 2 and 54.

grant probates of wills and letters of administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Probate and Administration Act, 1903.

The Indian Succession Act, 1865.[1]

X of 1865.

Amendment of sections 187, 212, 242A, 244, 246 and 250, Act X, 1865.

2. In the Indian Succession Act, 1865, the following amendments shall be made, namely :—

(*1*) In section 187, for the words "within the Province" the words "in British India," and for the words "under the one hundred and eightieth section" the words "with the will, or with a copy of an authenticated copy of the will, annexed," shall respectively be substituted.

(*2*) To section 242 the following proviso shall be added, namely :—

"Provided that probates and letters of administration granted—

(*a*) by a High Court or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*3*) After the said proviso the following section shall be inserted namely :—

Transmission to High Courts of certificate of grants under proviso to section 242.

"242A. (*1*) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 242, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :—

(*a*) when the grant has been made by a High Court, to each of the other High Courts,

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(*2*) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*] hereby certify that, on the day of , the High

[1] General Acts, Vol. I.

Court of Judicature at [*or as the case may be*], granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of , and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India;'

and such certificate shall be filed by the High Court receiving the same.

(*3*) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 244 and 246, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (*1*) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*4*) To sections 244 and 246, respectively, the following paragraph shall be added, namely:—

"Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(*5*) After section 246 the following section shall be inserted, namely:—

Addition to statement in petition, etc., probate or letters of administration in certain cases.

"246A. (*1*) Every person applying to any of the Courts mentioned in the proviso to section 242 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 244 and section 246 of this Act, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(*2*) The Court to which any such application is made under the proviso to section 242, may, if it thinks fit, reject the same."

(*6*) To section 250 the following paragraph shall be added, namely:—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same

manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

(7) After section 277 the following section shall be inserted, namely:—

Inventory to include property in any part of British India in certain cases.

"277A. In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor or administrator shall include in the inventory of the effects of the deceased all his moveable or immoveable property situate in British India,

and the value of such property situate in each Province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India."

The Probate and Administration Act, 1881.[1]

Amendment of sections 59, 60, 62, 64 and 69, Act V, 1881.

3. In the Probate and Administration Act, 1881[1], the following amendments shall be made, namely:— V of 1881.

(1) In section 59, for the proviso the following proviso shall be substituted, namely:—

"Provided that probates and letters of administration granted—

(a) by a High Court, or

(b) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

Transmission to High Courts of certificates of grants under proviso to section 59.

(2) For section 60 the following section shall be substituted, namely:—

"60. (1) Where probate or letters of administration has or have been granted by a Court with the effect referred to in the proviso to section 59, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:—

(a) when the grant has been made by a High Court, to each of the other High Courts,

(b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

[1] General Acts, Vol. III.

(*2*) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of the High Court of Judicature at [*or as the case may be*] granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of , and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India;'

and such certificate shall be filed by the High Court receiving the same.

(*3*) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 62 and 64, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (*1*) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*3*) To sections 62 and 64, respectively, the following paragraph shall be added, namely:—

"When the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(*4*) To section 69 the following paragraph shall be added, namely:—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

Repeals.

Repeals.

4. The Probate and Administration Act, 1875,[1] sections 2, 3, 4 and 5, and the Probate and Administration Act, 1877, are hereby repealed. XIII of 1875. II of 1877.

[1] General Acts, Vol. II.

ACT No. IX OF 1903.[1]

[*20th March 1903.*]

An Act to provide for the levy of customs-duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894.

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a Committee specially constituted in this behalf;

and whereas for this purpose it is expedient to levy customs-duty on tea produced in India and exported from British India, and to amend section 5 of the Indian Tariff Act, 1894[2];

VI of 1894.

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Tea Cess Act, 1903; and

(*2*) It extends to the whole of British India except Aden.

Definitions.

2. In this Act,—

(*a*) "Collector" means, in reference to tea exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878,[3] and, in reference to tea passing out of British India by land, the Collector of the district;

VIII of 1878.

(*b*) "tea cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894,[2] as amended by this Act; and

VIII of 1894.

(*c*) "Tea Cess Committee" means the Committee constituted under section 4.

Imposition of duty on exports of Indian tea.

3. On and from the first day of April 1903, a customs-duty shall be levied and collected on all tea produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of one-quarter of a pie per pound, or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee, prescribe by notification in the Gazette of India.

Constitution of Tea Cess Committee.

4.[4] (*1*) The Governor General in Council shall constitute a Committee to receive and expend the proceeds of the tea cess.

(*2*) The Committee shall in the first instance consist of twenty members,

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 6; for Report of the Select Committee, *see ibid*, p. 123; for Proceedings in Council, *see ibid*, Pt. VI, pp. 3, 15 and 56.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. II.

[4] For notification issued under this section establishing the Indian Tea Cess Committee, *see* Gazette of India, 1903, Pt. I, p. 333; Gen. R. and O.

who shall be appointed by the Governor Gener n Council on the recommendation of the following bodies and authorities, namely :—

(*a*) three on the recommendation of the Bengal Chamber of Commerce, and one on the recommendation of the Madras Chamber of Commerce ;

(*b*) seven on the recommendation of the Indian Tea Association, Calcutta ; and

(*c*) nine on the recommendation of such respective bodies or authorities interested in the production of tea in India, and established in British India, as the Governor General in Council may appoint in this behalf :

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled to make, the Governor General in Council may appoint the required number of members of the Committee of his own motion without such recommendation.

(*3*) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (*2*), or in default of such recommendation, dies, resigns, ceases to reside in British India or becomes incapable of acting as a member of the Committee, the Governor General in Council may, in his discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

(*4*) No act done by the Tea Cess Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Application of proceeds of tea cess

5. (*1*) At the close of each month, or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the tea cess, after deducting the expenses of collection (if any), to the Tea Cess Committee.

(*2*) The said proceeds and any other moneys received by the Committee in this behalf shall be applied by the Committee towards meeting the cost of such measures as the Committee may consider it advisable to take for promoting the sale and increasing the consumption in India and elsewhere of teas produced in India.

Keeping and auditing of accounts.

6. (*1*) The Tea Cess Committee shall keep accounts of all money received and expended under section 5.

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council ; and such auditors

may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(*3*) If any item is disallowed, an appeal shall lie to the Governor General in Council whose decision shall be final.

Power to make rules.

7. (*1*) The Governor General in Council, after consulting the Tea Cess Committee and after previous publication, may make rules [1] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the nomination and appointment of members of the Committee, and the procedure of the Committee;

(*b*) the levy and payment of the cess; and

(*c*) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon.

(*3*) All such rules shall be published in the Gazette of India.

Amendment of Act VIII of 1894, section 5.

VIII of 1894.

8. In section 5 of the Indian Tariff Act, 1894[2], for the words "shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by and into" the words "at such rates as may be prescribed by or under this Act or by or under any law for the time being in force relating to customs-duties on imports and exports, respectively, into and from ports, shall be levied on goods passing by land out of or into" shall be substituted.

Time during which sections 2 to 7 are to remain in force.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March 1908:

Provided that the Governor General in Council may, on the recommendation of the Tea Cess Committee, declare, by notification [3] in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds of tea cess.

10. If any proceeds of the tea cess or any moneys so received as aforesaid remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty.

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[1] For rules, *see* Gazette of India, 1904, Pt. I, p. 778; Gen. R. and O.

[2] General Acts, Vol. IV.

[3] For notification declaring that sections 2 to 7 shall remain in force till the 31st March 1913, *see* Gazette of India, 1908, Pt. I, p. 11.

ACT No. X of 1903.[1]

[*20th March 1903.*]

An Act to provide for the erection and management of the Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a memorial of the life and reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland, Queen, Empress of India, and for this purpose large sums of money have been subscribed by the princes and people of India;

And whereas at a meeting of subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys;

And whereas it is expedient to make provision for the erection, maintenance and management of the memorial and for the appointment of a permanent body of Trustees;

It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may called the Victoria Memorial Act, 1903; and

(*2*) It shall come into force at once.

Trustees.

2. (*1*) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely :—

(*a*) the Governor General of India,

(*b*) the Lieutenant-Governor of Bengal,

(*c*) the Chief Justice of Bengal,

(*d*) two persons of high rank nominated by the Governor General to represent the Chiefs and Nobles of India,

(*e*) the Secretary to the Government of India in the Foreign Department,

(*f*) the President of the Bengal Chamber of Commerce,

(*g*) the Chairman of the Corporation of Calcutta, and

(*h*) such and so many persons as shall from time to time be nominated by the Trustees with the approval of the Governor General to represent the general body of subscribers.

(*2*) The Trustees shall be a body corporate, with perpetual succession by the name of "The Trustees of the Victoria Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 161; for Proceedings in Council, *see ibid*, Pt. VI, pp. 22 and 58.

(*3*) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(*4*) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(*5*) In the case of *ex officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (*1*) shall act as a Trustee.

(*6*) The Trustees may appoint a person to act as their Secretary.

(*7*) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and countersigned by the Secretary.

Property vested in Trustees.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

Officers and servants to be public servants.

4. All officers and servants employed by the Trustees shall be deemed to be public servants within the meaning of the Indian Penal Code[1] : **XLV of 1860.**

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

Rules.

5. (*1*) The Governor General in Council may make rules[2] to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which Trustees, other than *ex officio* Trustees shall be appointed, and for the periods of time for which such Trustees shall hold office ;

(*b*) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings ;

(*c*) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees ;

(*d*) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto ;

(*e*) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts ; and

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[1] General Acts, Vol. I.

[2] For rules, *see* Gazette of India, 1903, Pt. I, p. 230 ; Gen. R. and O.

(*f*) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

ACT No. XI OF 1903.[1]

[*25th March 1903.*]

An Act further to amend the Indian Income-tax Act, 1886.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1886[2]; It is hereby enacted as follows:— II of 1886.

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act 1903; and

(*2*) It shall come into force on the first day of April, 1903.

Amendments in Act II of 1886.

2. (*1*) In section 5, sub-section (*1*), clause (*j*), of the Indian Income-tax Act, 1886,[2] for the words "five hundred" the words "one thousand" shall be substituted. II of 1886.

(*2*) In section 41 of the said Act, for the words "forty-one rupees ten annas and eight pies" and "five hundred," the words "eighty-three rupees five annas and four pies" and "one thousand," respectively, shall be substituted.

(*3*) In the second column of Part III of the Second Schedule to the said Act, for the figures "500" the figures "1,000" shall be substituted.

(*4*) For sub-head (*a*) in the second column of Part IV of the said Schedule the following sub-heads shall be substituted, namely:—

(*a*) If the annual income is assessed at—

not less than Rs. 1,000	but less than Rs. 1,250	the tax shall be Rs. 20			
„ „ „ 1,250	„ „ 1,500	„ „ 28			
„ „ „ 1,500	„ „ 1,750	„ „ 35			
„ „ „ 1,750	„ „ 2,000	„ „ 42"			

ACT No. XII OF 1903[3].

[*28th August 1903.*]

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894[4]; It is hereby enacted as follows:—

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1903. VIII of 1894.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 453; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 46 and 62.

[2] General Acts, Vol. III.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 461; for Proceedings in Council, *see ibid*, Pt. VI, pp. 153 and 155.

[4] General Acts, Vol. IV.

[1](2) *Section 3 shall remain in force until the thirty-first day of March 1904.*

VIII of 1894. **2.** In section 8A, sub-section (*1*), of the Indian Tariff Act, 1894,[2] as amended by section 2 of the Indian Tariff Amendment Act, 1899[2], before the words "the exportation therefrom" the words "the production therein or" shall be inserted. Amendment of section 8A, Act VIII, 1894.

VIII of 1894. **3.**[1] *After section 8B of the Indian Tariff Act, 1894,*[2] *as amended by section 2 of the Indian Tariff (Amendment) Act, 1902,*[3] *the following section shall be added, namely :—* *Addition of new section 8C to Act VIII, 1894.*

"8C. Notwithstanding that the condition precedent to the imposition of a duty under section 8A may have ceased to exist, and notwithstanding anything in section 1, sub-section (2), of the Indian Tariff (Amendment) Act, 1902,[4] *any duties which may have been imposed and are chargeable under section 8A or section 8B on the thirty-first day of August 1903, shall continue to be chargeable in accordance with any rules in force on the said date :* *Continuation of duties chargeable under sections 8A or 8B on 31st August 1903.*

Provided that the Governor General in Council may, by notification in the Gazette of India, reduce the rate at which any such duty is levied, and amend or vary any such rules as aforesaid."

ACT No. XIII OF 1903.[4]

[*18th September 1903.*]

An Act further to amend the Lepers Act, 1903.

III of 18 WHEREAS it is expedient further to amend the Lepers Act, 1898[3], by providing for the segregation and medical treatment in British India of lepers belonging to Native States ; It is hereby enacted as follows :—

1. This Act may be called the Lepers (Amendment) Act, 1903. Short title.

II of 1898. **2.** After section 18 of the Lepers Act, 1898,[3] the following section shall be added, namely : Addition of new section after section 18, Act III, 1898.

"19. The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to Lepers from Native States.

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[1] *Expired.*
[2] General Acts, Vol. IV.
[3] *Supra.*
[4] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 467 ; for Proceedings in Council, *see ibid*, Pt. VI, pp. 158 and 163

whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act."

ACT No. XIV OF 1903[1].

[*23rd October 1903.*]

An Act to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903; It is hereby enacted as follows :—

Short title, extent and application.

1. (*1*) This Act may be called the Indian Foreign Marriage Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas, the Shan States and the Pargana of Spiti; and

(*3*) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

Notice of marriage intended to be solemnized under 55 & 56 Vict., c. 23.

2. (*1*) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892,[2] may be given by one of the parties intending such marriage, to— 55 & 56 Vict. c. 23.

(*a*) a Marriage Registrar appointed under the Indian Christian Marriage Act, 1872,[3] where either of such parties is a person professing the Christian religion; XV of 1872.

(*b*) a District Magistrate, Chief Presidency Magistrate or Political Agent where neither of such parties is a person professing the Christian religion :

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1903, Pt. V, p. 466; for Proceedings in Council, *ibid*, Pt. VI, pp. 157 and 165.

[2] Coll. Stat., Vol. II.

[3] General Acts, Vol. II.

(*2*) Every notice given under this section shall state—

(*a*) the name, surname, age and profession or condition of each of the parties intending marriage;

(*b*) the residence of each of them;

(*c*) the time during which each of them has dwelt there; and

(*d*) the place in which the intended marriage is to be solemnized;

and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage.

(*3*) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(*4*) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (*3*), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage shall, on payment of such fee (if any) as the Governor General in Council may fix in this behalf,[1] furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

THE INDIAN EXTRADITION ACT, 1903.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3. (*1*) Requisition for surrender.
   (*2*) Summons or warrant for arrest.
   (*3*) Inquiry by Magistrate.
   (*4*) Committal.

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[1] For rules as to such fees, *see* Gen. R. and O.

SECTIONS.

(5)
(6) Magistrate's report.
(7) Reference to High Court if Government thinks necessary.
(8) Warrant for surrender.
(9) Lawfulness of custody and re-taking under warrant for surrender.
(10) Discharge of fugitive criminals committed to prison after two months.
4. (1) Power to Magistrate to issue warrant of arrest in certain cases.
(2) Issue of warrant to be reported forthwith.
(3) Person arrested not to be detained unless order received.
(4) Bail.
5. (1) Power of Government to refuse to issue order under section 3 when crime of political character.
(2) Power to Government to discharge any person in custody at any time.
6. References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Issue of warrant by Political Agents in certain cases.
(2) Execution of such warrant.
(3) Proclamation and attachment in case of persons absconding.
8. (1) Release on giving security.
(2) Magistrate to retain bond.
(3) Re-arrest in case of default.
(4) Deposit in lieu of bond, and forfeiture of bonds.
9. Requisition by States not being Foreign States.
10. (1) Power to Magistrates to issue warrants of arrest in certain cases.
(2) Issue of warrant to be reported forthwith.
(3) Limit of time of detention of person arrested.
(4) Bail.
11. (1) Surrender of person accused of, or undergoing sentence for, offence in British India.
(2) Suspension of sentence on surrender.
12. Application of Chapter to convicted persons.
13. Abetment and attempt.
14. Lawfulness of custody and re-taking under warrant issued under Chapter.
15. Power of Government to stay proceedings and discharge persons in custody.
16. Application of Chapter to offences committed before its commencement.
17. (1) Receipt in evidence of exhibits, depositions and other documents.
(2) Authentication of the same.
(3) Definition of "warrant".
18 Chapter not to derogate from treaties.

(*Chapter I.—Preliminary.*)

CHAPTER IV.

RENDITION OF FUGITIVE OFFENDERS IN HIS MAJESTY'S DOMINIONS.

19. Application of Fugitive Offenders Act, 1881.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

20. Requisition for surrender in case of offence committed at sea.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

21. Execution of Commissions issued by Criminal Courts outside British India.

CHAPTER VII.

SUPPLEMENTAL.

22. Power to make rules.
23. Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.
24. Repeals.

THE FIRST SCHEDULE.—EXTRADITION OFFENCES.
THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT NO. XV OF 1903.[1]

[*4th November 1903.*]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870[2] and 1873[2], and of the Fugitive Offenders Act, 1881[2];

33 & 34 Vict., c. 52; 36 & 37 Vict., c. 60; 44 & 45 Vict., c. 69.

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870, and 1873, do not apply;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Extradition Act, 1903. Short title,

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt V, p. 24; for Report of Select Committee, *see ibid*, 1903, Pt. V, p. 469; for Proceedings in Council, *see ibid*, Pt. VI, pp. 151, 163 and 177.

[2] Coll. Stat., Vols. I and II, respectively.

extent and commencement.

(*2*) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and

(*3*) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.[1]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force:

(*b*) "extradition offence" means any such offence as is described in the first schedule:

(*c*) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870[2] and 1873,[2] apply:

(*d*) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force:

33 & 34 Vict. c. 52; 36 & 37 Vict., c. 60.

(*e*) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and

(*f*) "rules" include prescribed forms.

CHAPTER II.[3]

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

Requisition for surrender.

3. (*1*) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in, or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

Summons or warrant for arrest.

(*2*) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

Inquiry by Magistrate.

(*3*) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case

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[1] The Act has been declared to come into force from the 1st June 1904, *see* Gazette of India, 1904, Pt. I, p. 364.

[2] Coll. Stat., Vols. I and II, respectively.

[3] Chapter II has been declared to have effect in British India as if it were part of the Extradition Act, 1870 (33 & 34 Vict., c. 52): *see* Order in Council, dated the 7th March 1904, Gazette of India, 1904, Pt. I, p. 363.

were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal.

(*4*) If the Magistrate is of opinion that a *primâ facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

Bail.

(*5*) If the Magistrate is of opinion that a *primâ facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(*6*) The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(*7*) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(*8*) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(*9*) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (*8*), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(*10*) If such a warrant as is prescribed by sub-section (*8*) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (*4*), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such

application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Magistrate to issue warrant of arrest in certain cases.

4. (*1*) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

Person arrested not to be detained unless order received.

A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (*1*).

Bail.

(*4*) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Power of Government to refuse to issue order under section 3 when crime of political character.

5. (*1*) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (*1*).

Power of Government to discharge any person in custody at any time.

(*2*) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,[1] shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be. 33 & 34 Vict., c. 52.

[1] Coll. Stat., Vol. I.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

Issue of warrant by Political Agents in certain cases.

7. (*1*) Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State and such person escapes into or is in British India and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant.

(*2*) A warrant issued as mentioned in sub-section (*1*) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(*3*) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

8. (*1*) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(*2*) When security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(*3*) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(*4*) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of

a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisitions by States not being Foreign States.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section:

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Power to Magistrates to issue warrants of arrest in certain cases.

10. (*1*) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time of detention of person arrested.

(*3*) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(*4*) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or undergoing sentence

11. (*1*) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance

with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked: for offence in British India.

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(*2*) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender. Suspension of sentence on surrender.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired. Application of Chapter to convicted persons.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly. Abetment and attempt.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape. Lawfulness of custody and re-taking under warrant issued under Chapter.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged. Power of Government to stay proceedings and discharge person in custody.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction. Application of Chapter to offences committed before its commencement.

17. (*1*) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence. Receipt in evidence of exhibits, depositions and other documents.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions.)

Authentication of the same.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

(a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State:

(b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require:

(c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State:

(d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

Definition of "warrant".

(3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Chapter not to derogate from treaties.

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

CHAPTER IV. [1]

Rendition of Fugitive Offenders in His Majesty's Dominions.

Application of Fugitive Offenders Act, 1881.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881,[2] the following provisions are hereby made:— 44 & 45 Vict. c. 69.

(a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:

[1] An order in Council dated 7th March 1904, has declared that this Chapter shall be recognized and given effect to throughout His Majesty's Dominions and on the high seas as if it were a part of the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69).

[2] Coll. Stat., Vol. II.

(*b*) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:

(*c*) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government [1] in that behalf: and

(*d*) the offences committed in British India to which the Act applies, are piracy, treason, and any offence punishable under the Indian Penal [2]Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

XLV of 1860.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act. Requisition for surrender in case of offence committed at sea.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding: Execution of commissions issued by Criminal Courts outside British India.

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

[1] For notification by the Government of Madras in respect of the City of Madras, *see* Mad. R. and O.

[2] General Acts, Vol. I.

CHAPTER VII.

SUPPLEMENTAL.

Power to make rules.

22. (*1*) The Governor General in Council may make rules[1] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(*c*) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere; and

(*d*) the procedure and practice to be observed in extradition proceedings.

(*3*) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

Detention of persons arrested under section 54 clause *seventhly*, Act V 1898.

23. Notwithstanding anything in the Code of Criminal Procedure, 1898,[2] V of 1898. any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

Repeals.

24. The Acts mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause (b), and Chapter III (Surrender of Fugitive Criminals in case of States other than Foreign States).*]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304).

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[1] For rules, *see* Gazette of India, 1904 Pt. I, p. 364; Gen. R. and O.

[2] *Supra.*

Attempt to murder (section 307).

Thagi (sections 310, 311).

Causing miscarriage, and abandonment of child (sections 312 to 317).

Causing hurt (sections 323 to 333).

Wrongful confinement (sections 347, 348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc. (sections 421 to 424).

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443, 446).

Forgery, using forged documents, etc. (sections 463 to 477A).

Desertion from any body of Imperial Service Troops.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 24.*)

Year	No.	Short title.	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	So much as is unrepealed.
1895	IX	The Extradition (India) Act, 1895	The whole Act.
1896	V	The Foreign Jurisdiction and Extradition Act, (1879) Amendment Act, 1896.	The whole Act.

INDEX.

(*The references are to pages.*)

Actionable claims—*see* Transfer of Property Act, 1900.

Administrators General and Official Trustees Act, 1902 . . . 563

Amending Act, 1901 (XI of 1901) 533

Short titles 533

Arbitration —*see* the Indian Arbitration Act, 1899.

Articles of War (Indian), *see* Indian Articles of War Amendment Act, 1900 and 1901.

Bank-notes, forgery of—*see* Currency-notes Forgery Act, 1899.

Bankers' Books Evidence Act, 1900 567

Cantonments (House-Accommodation) Act, 1902 545

Appeals 558

Application of the Act 549

Appropriation of house by army officers 550

Committees of Arbitration 556

Definitions 548

Military tenants and repairs . . . . . 553—555

Protection to persons acting under Act 561

Recovery of rent from military tenants 559

Rules under the Act 560

Written instruments, saving of 549

Carriages —*see* Stage-Carriages Act (1861) Amendment Act, 1898.

Carriers Act, 1899 466

Chief Controlling Revenue-authority—*see* Court-fees (Amendment) Act, 1901.

Church of Scotland Kirk Sessions Act, 1899 480

Companies—*see* Indian Companies (Branch Registers) Act, 1900.

Convicts—*see* Prisoners Act, 1900.

Court fees in certain applications to Financial Commissioner, Punjab . 506

Court-fees Amendment Act, 1899 467

Probate and letters of administration 467

Recovery of penalties 469

Court-fees (Amendment) Act, 1901 532

Chief Controlling Revenue-authority 532

Criminal Procedure Code, 1898 14

Abducted females 210

Acquittal or conviction when bar to further trial . . . 165

Affidavits 207

Criminal Procedure Code, 1898—*contd.*

Aid and information to Authorities . . . . . 55—57
Appeal, Reference and Revision . . . . . 166—175
Arrest . . . . . 57—62
Attachment—*see* under Processes.
Bail . . . . . 193—195
Bonds . . . . . 198—199
Charge . . . . . 114—121
Commissions . . . . . 195—197
Compensation, for frivolous or vexatious accusation . . 123
for groundless arrest 210
to person injured by offence 209
Compounding offences . . . . . 148—149
Constitution and Powers of Criminal Courts and Offices . . 44—55, 212
Court to be open 151
Definitions . . . . . 40—43
Direction of nature of *Habeas Corpus* 191
Disposal of Property . . . . . 199—202
Europeans and Americans . . . . . 175—182
Evidence, mode of recording . . . . . 154—155
Evidence recorded by predecessor in office 150
Examination of accused 147
Expenses of complainants and witnesses 208
First offenders 213
Frivolous accusations 123
High Courts, trial before . . . . . 128, etc.
Immoveable property, disputes as to . . . . . 88—99
Information to Police and Powers of Investigation . . 91—100
Irregular Proceedings . . . . . 204—207
Judgment . . . . . 156—158
Lunatics . . . . . 182—185
Maintenance of Wives and Children . . . . . 189—191
Military Offenders . . . . . 209—210
Money ordered to be paid recoverable as fine 209
Pardon . . . . . 145—146
Personal interest of judge or magistrate 211
Pleader, right of accused to be defended by 147
Prevention of Offences . . . . . 90—91
Previously convicted Offenders 214
Proceedings in case of offences against justice . . . . . 185—189
Proceedings in Prosecutions . . . . . 100—145
Processes (including Attachment, Proclamation, Search, Summons and Warrant) . . . . . 63—74
Proclamation—*see* under Processes.
Public nuisances . . . . . 84—87
Public Prosecutor 192
Rules 210, 211

Criminal Procedure, Code 1898—*contd.*
Searches—*see* under Processes.
Security for keeping the peace and good behaviour . . . . 74—82
Sentences 56
confirmation of 158
execution of . . . . . 159—164
suspension, etc., of . . . . . 164—165
Session Court, trial before . . . . . 128, etc.
Special Proceedings . . . . . 175—191
Special Rules of Evidence . . . . . 197—198
Summary trials . . . . . 125—128
Summons—*see* under Processes.
Summons cases . . . . . 121—122
Transfer of Criminal Cases . . . . . 202—204
Unlawful assemblies . . . . . 82—83
Urgent cases, temporary orders in 87
Warrant, *see* under Processes.
Warrant cases . . . . . 124—125
Currency-notes—*see* Currency-notes Forgery Act, 1899.
Currency conversion (Army) Act, 1899 479
Amendment of 506
Currency-notes Forgery Act, 1899 471

Dangerous petroleum—*see* Indian Petroleum Act, 1899.
Defence works—*see* Works of Defence.

Electricity—*see* Indian Electricity Act, 1903.
Extradition—*see* Indian Extradition Act, 1903.

Finger Impressions—*see* Indian Evidence Act, 1899.
Foreign marriages—*see* Indian Foreign Marriage Act, 1903.
Forgery of currency and bank-notes—*see* Currency-notes Forgery Act, 1899.

Glanders and Farcy Act, 1899 473
"diseased" defined 473
Diseased animal, destruction of 475
notice as to 475
Inspectors 474, 477
powers of 474
Penalties 476
Protection to persons acting under Act 477
Rules 476
Vexatious entries, searches, etc. 476
Government Buildings Act, 1899 438

House Accommodation in Cantonments—*see* Cantonments (House Accommodation) Act, 1902.

Income-tax—*see* Indian Income-tax (Amendment) Act, 1903.

Indian Arbitration Act, 1899 459
Appointment of arbitrator 460
Award 462
Costs 463
Crown, bound by Act 463
Definitions 460
Exclusion of certain enactments in certain cases where the Act applies 460
Forms 463
Powers of arbitrator 461
Rangoon, application of Act to 463
Remitting of award 462
Removal of an arbitrator 462
Rules by High Court 463
Setting aside award 462
Stay of proceedings on submission 463
Time, enlargement of 462
Vacancy, power to supply 461
Indian Articles of War Amendment Act, 1900 481
Indian Articles of War Amendment Act, 1901 531
Indian Companies (Branch Registers) Act, 1900 504
Indian Contract Act Amendment Act, 1899 440
Penalty, stipulation as to 442
Undue influence 440, 441
Indian Electricity Act, 1903 577
Accidents 598
Advisory Boards 602
Aërial lines 594
Alteration of pipes or wires 591
Arbitration 605
Attachment, exemption of supply lines, etc., from 597
Breaking up of streets, railways, tramways, etc. 588, 593
Charges 596, 614
Compensation 595, 598
Compulsory works 610
Definitions 580
Discontinuance of supply 596
Electric Inspector 603
Electrical power, maximum of 596
Laying of supply lines 592
License to supply energy 581
grant and revocation of . . . . . 582—586, 587
restriction on use of energy supplied without . . 601
Licensee, accounts of 587, 608
not to purchase or transfer undertaking . . . 587
obligation to supply 595, 610

Indian Electricity Act—*contd.*

powers of 588, 595
powers of Local Government on default by . . 599
restrictions on 595
security 608
Local Government, powers of 587, 599
exercise by the Governor General of functions of . . 607
Meters 599
Notice of new works 589
to Electrical Inspector 617
Penalties 605
Plans 616
Protection for acts done in good faith 607
of railways, etc. 597
of telegraphs, etc. 597
Purchase of undertaking 586, 587
Recovery of sums 605
Restrictions on use of energy 601
Rules 602
Service of notice, etc. 605
Supply of energy to public . . . . . 581, etc.
nature and mode of 610
Telegraph authority, exercise of powers of 604
Testing and inspection 595, 615
Indian Evidence Act, 1899 439
Finger impressions 440
Indian Extradition Act, 1903 649
Abetment and attempt 657
Application of Fugitive Offenders Act, 1881 . . . 658, 659
Bail 653, 654, 656
Commisions issued by criminal courts outside British India, execution of 659
Definitions 652, 658
Discharge 653, 654
Extradition Act, 1870, interpretation of expressions in . . 654
Extradition offences 660, 661
Fugitive criminals in case of Foreign States . . . . 652, etc.
Government, power of, to make or refuse order . . . 652, 654
inquiry and proceedings before Magistrate on requisition for surrender 652, 653
magistrate, power of, to issue warrant 653, 654
requisition for surrender 652
Fugitive criminals in case of other States . . . . 655, etc.
evidence, rules as to 65
Government, power of, to stay proceedings and order discharge 657

Indian Extradition Act, 1903—*contd.*

magistrate, power to issue warrant 656
Political Agents, warrant issued by 655
execution of 655
release on security 655
requisition for surrender 656
sentence in British India, persons undergoing . . . 656, 657
treaties, effect of 658
Fugitive offenders in His Majesty's Dominions . . . 658
Retaking on escape 653, 657
Rules 660
Sea, offences committed at 659

Indian Foreign Marriage Act, 1903 648

Indian Forest (Amendment) Act, 1901 515

Indian Income-tax (Amendment) Act, 1903 646

Indian Insolvency Rules Act, 1898 366

Indian Marine Act (1887) Amendment Act, 1899 (I of 1899) . . 367

Gazetted officer, Warrant officer, Petty officer } defined . . . . . 367—368
Provision in case of wreck, loss, destruction or capture of vessel 369

Indian Mines Act, 1901 517

Accidents 524
Definitions 517
Inspectors 518
Mining Boards and Committees 520
Mining operations and duties and responsibilities of owners, agents and managers 522
Penalties 529
Prosecutions and Procedure 530
Rules 525
Special rules by owners 527
Women and children, power to prohibit employment of . . 522

Indian Petroleum Act, 1899 444

Application to substances other than petroleum . . . 453
Dangerous petroleum 447, 448
Definitions 445
Grant of certificate of testing 451
Penalties 452
Possession and transport 450, 451
Power to exempt from Act 453
Rules 448
Sample, power to take and test 451
Test apparatus 453

Indian Post Office Act, 1898 336
Abetment and attempt 362
Conditions of transmission of postal articles 347
Customs duties payable on postal articles 346
Definitions 340
Delegation of powers to Director-General 363
Issue of Postal Orders 356
Money Orders 356
Offences by Officers of Post Office 358
Penalties and Procedure 358
People who may not convey letters 343
Postage 343
Power to detain, intercept and deal with postal articles . . 348, 351
Privilege and Protection of Government 342
Prohibition against transmission of certain articles by post . 347, 348
Recovery of Money Orders 357
Redelivery to sender 347
Registration, Insurance and Value-payable Post . . . 351
Rules 344, 348, 352, 353, 354
Ship Letters 355
Stamps 346
Undelivered Postal Articles 354
Zamindari and District Posts 363
Indian Post Office (Amendment) Act, 1903 577
Indian Stamp Act, 1899 (II of 1899) 369
Adjudication as to stamps 390
Admission in evidence of instruments not duly stamped, how questioned 393, 403, 404
Allowances for stamps in certain cases 397
Definitions 373, 378
Duty, by whom payable . . . . . 388, etc.
composition, reduction and remission of . . . 380
to be paid in stamps 382
Foreign currency 384
Inspection of books 407
Instruments, liability to duty of . . . . . 378, etc.
not duly stamped . . . . . 392, etc.
relating to several matters 379
several, used in single transaction 379
time of stamping 383
Offences 404, 406
Procedure in prosecutions 406, 407
Recovery of duty and penalty 396, 397
Reference and revision . . . . . 402, etc.
Refund of excess duty or penalty 394, 396

Indian Stamp Act, 1899 (II of 1899)—*contd.*
Rules 407, 408
Stamps, mode of use 382, 383
Rules as to supply and sale of 407
Time of stamping instruments 383
Valuation for duty 384, 388
Indian Steam-ships (Amending and Validating) Act, 1902 . . . 561
Indian Steam-vessels Act (1884) Amendment Act, 1899 . . . 443
Rules for prevention of collision 443
Indian Tariff Amendment Act, 1899 478
Indian Tariff (Amendment) Act, 1902 567
Special duty on sugar 567
Indian Tariff (Amendment) Act, 1903 646
Indian Tea Cess Act, 1903 641
Indian Tolls (Army) Act, 1901 507
Compensation 511
Definitions 508
Exemptions from tolls 509, 511
Penalty 511
Rules 512
Indian Tramways Act, 1902 562
Indian Works of Defence Act, 1903 618
Application of the Code of Civil Procedure 622, 636
Application of the Penal Code 627
Award by Collector 627
Award by Judge 630
Compensation, apportionment of 631
matters to be considered and neglected in awarding . . 628, 629, 630
rules as to amount of 630
Declaration of imposition of restriction on use of land . . 622
powers exerciseable on 622, 623
damages 623
Definitions 620
Inquiry by Collector 627, 628
Interest 631, 633
Investment of money deposited 632, 633
Notice to persons interested 626
service of 633
Part of building, demolition of 635
Payment 631
Penalties 634
Reference to Court . . . . . 628, etc.
Restrictions which may be imposed upon use of land . . 624, 625
imposition of, not compulsory 634
Rules 636
Suits 636

Inspectors of mines—*see* Indian Mines Act, 1901.
Land Improvement Loans Amendment Act, 1899 479
Lepers Act, 1898 2
Appeals 7
Arrest of paupers 4, 5
Asylums 3
Conviction 6
Definitions 3
Discharge 7
Escaped lepers, re-arrest of 7
Lepers from Native States 8
Proceedings 5
Rules 7
Trades and acts 5, 6
Lepers Amendment Act, 1903 647
Livestock Importation Act, 1898 365
Definitions 365
Powers to regulate importation 365
Protection to persons acting under Act 366
Rules 366
Lunatic prisoners—*see* Prisoners Act, 1900.

Marriage—*see* Foreign marriages.
Military Works—*see* Works of Defence.
Mines—*see* Indian Mines Act, 1901.

Native Christian Administration of Estates Act, 1901 515
Definitions 516
North-West Provinces—*see* United Provinces (Designation) Act, 1902.

Official Trustees—*see* Administrator General and Official Trustees Act, 1902.
Oudh—*see* United Provinces (Designation) Act, 1902.

Petroleum—*see* Indian Petroleum Act, 1899.
Post Office—*see* Indian Post Office Act, 1898; Indian Post Office (Amendment) Act, 1903.
Presidency Banks Act, 1899 480
Presidency Small Cause Courts Act, 1899 437
Performance of duties of absent judge 437
Prisoners Act, 1900 485
Definitions 488
Execution of sentences of Courts outside British India . . 491, 492
Lunatic prisoners 495
Penal servitude, persons under sentence of . . . . 493, etc.
License to go at large granted to 493, 494
Prisoners, attendance in Court of 497
Commission for examination of 500

Prisoners Act, 1900—*contd.*
Discharge of 496
In Presidency Towns 489
Outside Presidency Towns 490
Removal of 494
Service of process on 501
Reformatory schools, application of Parts of Act to . . . 490, 494
Rules 502
Superintendent 489
Transportation, persons under sentence of 496
Probate and Administration Act, 1903 636
Amendment of the Indian Succession Act, 1865 (X of 1865) . 637
Amendment of the Probate and Administration Act, 1881 (V of 1881) 639
Provident Funds (Amendment) Act, 1903 617
Repealing and Amending Act, 1903 (I of 1903) 568
Short titles 568
Scotch Kirk—*see* Church of Scotland Kirk Sessions Act, 1899.
Short titles—*see* Amending Act, 1901, Repealing and Amending Act, 1903.
Stage-carriages Act (1861) Amendment Act, 1898 1
Stamps—*see* Indian Stamps Act, 1899.
Tenants—military tenants in cantonments—*see* Cantonments (House Accommodation Act), 1902.
Tea cess—*see* Indian Tea Cess Act, 1903.
Transfer of Property Act, 1900 482
Actionable claims 482
transfers of 483
Saving of negotiable instruments 484
United Provinces (Designation) Act, 1902 566
Veterinary practitioners—*see* Glanders and Farcy Act, 1899.
Victoria Memorial Act, 1903 644
Works of defence—*see* Indian Works of Defence Act, 1903.

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